

**PROPOSED AMENDMENTS TO
HOUSE BILL 2985**

1 On page 1 of the printed bill, delete lines 4 through 26 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. As used in sections 1 to 5 of this 2015 Act:**

4 **“(1) ‘County project coordinator’ means the county forester or a**
5 **designee of the county forester or, if there is no county forester, a**
6 **designee of the county governing body.**

7 **“(2) ‘Dealer’ means a person or agent of a person, other than a co-**
8 **operative, that purchases or contracts to purchase forestry products.**

9 **“(3) ‘Forestry product cooperative project’ means a county pro-**
10 **gram, administered by a county project coordinator, for forestry pro-**
11 **ducts grown on nonforest land within the county to be commercially**
12 **produced and marketed through a forestry product cooperative.**

13 **“(4) ‘Forestland’ means land for which the highest and best use is**
14 **the growing of forestry products.**

15 **“(5) ‘Forestry products’:**

16 **“(a) Except as provided in paragraph (b) of this subsection, means**
17 **products from harvested timber.**

18 **“(b) Does not mean products from short rotation fiber grown under**
19 **agricultural conditions as described in ORS 321.267 (3) or 321.824 (3),**
20 **western juniper or products from harvested western juniper.**

21 **“(6) ‘Local government’ has the meaning given that term in ORS**
22 **174.116.**

1 **“(7) ‘Nonforest lands’ means lands other than:**

2 **“(a) Lands in western Oregon that are forestland as defined in ORS**
3 **321.257; or**

4 **“(b) Lands in eastern Oregon that are forestland as defined in ORS**
5 **321.805.**

6 **“(8) ‘Party’ means a county, county project coordinator, county**
7 **employee, producer or dealer that carries out activities or engages in**
8 **transactions regarding a forestry product cooperative project.**

9 **“(9) ‘Producer’ means a possessor of land on which trees are grown**
10 **for harvesting as forestry products.**

11 **“SECTION 2. (1) The Legislative Assembly finds and declares that**
12 **because of the logistical challenges associated with the utilization of**
13 **individual trees on nonforest lands, and because of the benefits from**
14 **gains in commercial production and marketing of forestry products**
15 **that may result from coordinating the activities of producers and**
16 **buyers, it is in the public interest to establish cooperatives to coordi-**
17 **nate the tracking, removal and sale of trees and to set prices to ac-**
18 **complish increased utilization.**

19 **“(2) It is the intent of sections 1 to 5 of this 2015 Act to allow the**
20 **displacement of competition through a regulatory system for the**
21 **commercial production and marketing of forestry products under the**
22 **forestry product cooperative projects of counties to a limited degree.**
23 **The regulatory system is intended to grant immunity from federal and**
24 **state antitrust laws to the parties to a forestry product cooperative**
25 **project for the limited purpose of allowing the parties to bargain col-**
26 **lectively and to arrive at a negotiated price for forestry products**
27 **produced on nonforest land within a county.**

28 **“(3) The activities of any party that comply with the requirements**
29 **of the regulatory system described in sections 1 to 5 of this 2015 Act**
30 **and State Forester rules for carrying out the regulatory system and**

1 forestry product cooperative projects may not be considered to be in
2 restraint of trade, a conspiracy or combination or any other unlawful
3 activity in violation of any provision of ORS 646.705 to 646.826 or fed-
4 eral antitrust laws.

5 “(4) The State Forester shall actively supervise the conduct of a
6 party in negotiating tentative prices for forestry products bought and
7 sold as part of a forestry product cooperative project. The State
8 Forester shall actively supervise, and establish procedures and guide-
9 lines for, the negotiations between the parties and shall review the
10 tentative prices established by those negotiations. The State Forester
11 must set the prices for forestry products bought and sold as part of a
12 forestry product cooperative project by formal action before the prices
13 may be implemented. In setting the prices for the forestry products,
14 the State Forester may give consideration to the tentative prices for
15 those forestry products negotiated between the parties. The State
16 Forester must make any adjustments to previously set prices for
17 forestry products by formal action before the adjustments may be
18 implemented.

19 “(5) The State Forester may compel the parties to take whatever
20 action the State Forester considers necessary to:

21 “(a) Ensure that the parties are engaging in conduct that is au-
22 thorized under sections 1 to 5 of this 2015 Act;

23 “(b) Ensure that the policies of this state are being fulfilled under
24 a forestry product cooperative project; and

25 “(c) Prevent conduct by any of the parties that is not authorized
26 under the regulatory system administered by the State Forester or
27 conduct that, in the opinion of the State Forester, does not advance
28 the interests of this state in carrying out the regulatory system for
29 forestry product cooperative projects.

30 “(6) The State Forester may take any actions the State Forester

1 deems appropriate to resolve disputes between the parties that involve
2 or arise out of a forestry product cooperative project, including but
3 not limited to referring the dispute for mediation, arbitration or
4 hearing.

5 “(7) The State Forester may designate employees of the State
6 Forestry Department to carry out the responsibility of actively super-
7 vising the conduct of the parties, including serving as intermediaries
8 between parties or prospective parties.

9 “(8) The State Forester may adopt rules to carry out the State
10 Forester’s authority under sections 1 to 5 of this 2015 Act. The de-
11 partment and a county operating a forestry product cooperative
12 project program shall enter into a memorandum of understanding for
13 the county to reimburse the department for the actual costs to the
14 department of providing services for the benefit of the program.
15 Moneys paid by a county as reimbursement shall be deposited in the
16 State Forestry Department Account established under ORS 526.060.

17 **“SECTION 3.** Subject to section 2 of this 2015 Act, a county admin-
18 istering a forestry product cooperative project may do the following
19 to carry out the program:

20 “(1) Negotiate and enter into an agreement with any person or
21 governmental entity willing to commercially produce forestry products
22 as a member of the forestry product cooperative. The agreement must
23 specify the number, type and location of trees covered by the agree-
24 ment. The State Forester may impose additional requirements for the
25 contents of agreements described in this subsection. A tree that is
26 covered by an agreement must be marked for identification purposes
27 as required by the county. An agreement may not be used to alter the
28 supply of buildable land within an urban growth boundary.

29 “(2) Negotiate with one or more producers and dealers to establish
30 the price for forestry products sold through the cooperative. The

1 dealers may negotiate through a committee that sets forth the views
2 of the dealers and votes on any issues being negotiated as authorized
3 by this section, including the price for forestry products. However, a
4 person that is both a producer and a dealer may not participate in
5 negotiations under this section.

6 “(3) Enter into intergovernmental agreements with other counties
7 for the sharing of administrative or other project resources and ser-
8 vices and to provide for joint action by the counties in the selling of
9 forest projects. An intergovernmental agreement described in this
10 subsection may not take effect unless the agreement has been re-
11 viewed and approved by the State Forester. An intergovernmental
12 agreement described in this subsection is a part of the forestry product
13 cooperative project of each county entering into the agreement. An
14 intergovernmental agreement described in this subsection must in-
15 clude a provision allowing a county to withdraw from the agreement
16 after notice to the other party counties and to the State Forester.

17 **“SECTION 4. (1) Except as provided in this section, a local govern-**
18 **ment may not enforce an ordinance to require or prohibit the removal**
19 **of a tree that is subject to a forestry product cooperative project. This**
20 **subsection does not prohibit a local government from:**

21 **“(a) Enforcing a county ordinance approved by the State Forester**
22 **for regulating trees subject to a forestry product cooperative project**
23 **or regulating land on which a tree that is subject to a forestry product**
24 **cooperative project is located;**

25 **“(b) Enforcing a county ordinance adopted to implement compre-**
26 **hensive plan policies developed to address statewide land use goals;**

27 **“(c) Enforcing a local ordinance regulating a tree that is removed**
28 **from a forestry product cooperative project;**

29 **“(d) Exercising the power of eminent domain to acquire fee title to**
30 **the land on which a tree subject to a forestry product cooperative**

1 **project is planted; or**

2 **“(e) Acting or requiring action to remedy or mitigate a hazardous**
3 **condition in a tree that presents an imminent threat of serious harm**
4 **to persons or property.**

5 **“(2) This section does not prevent the application of a local ordi-**
6 **nance to require or prohibit the removal of a tree if the tree becomes**
7 **subject to the forestry product cooperative project more than five**
8 **years after the tree is planted.**

9 **“(3) This section does not require a county project coordinator or**
10 **the State Forester to consent to the inclusion or continued inclusion**
11 **of a tree in a forestry product cooperative project.**

12 **“(4) If the land on which a tree subject to a forestry product coop-**
13 **erative project is located is sold, the tree shall continue to be a tree**
14 **subject to the forestry product cooperative project unless:**

15 **“(a) The new owner of the land removes the tree from the project;**
16 **or**

17 **“(b) The county project coordinator determines that the tree is not**
18 **being maintained as required by the project.**

19 **“SECTION 5. (1) A county may not have more than one forestry**
20 **product cooperative project operating.**

21 **“(2) The State Forester may terminate the participation of a**
22 **forestry product cooperative project in the regulatory system estab-**
23 **lished under sections 1 to 5 of this 2015 Act if the State Forester de-**
24 **termines that the project is not being conducted in accordance with**
25 **sections 1 to 5 of this 2015 Act or rules adopted under section 2 of this**
26 **2015 Act.”.**

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