

**PROPOSED AMENDMENTS TO
HOUSE BILL 2984**

1 On page 1 of the printed bill, delete lines 4 through 23 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. As used in sections 1 to 7 of this 2015 Act:**

4 **“(1) ‘Clackamas Forestry Product Cooperative Project’ means the**
5 **pilot program established by Clackamas County under section 3 of this**
6 **2015 Act for forestry products grown on nonforest land within the**
7 **county to be commercially produced and marketed through a forestry**
8 **products cooperative.**

9 **“(2) ‘Dealer’ means a person or agent of a person, other than a co-**
10 **operative, that purchases or contracts to purchase forestry products**
11 **through the Clackamas Forestry Product Cooperative Project.**

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

14 **“(4) ‘Forestry products’:**

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

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

20 **“(5) ‘Nonforest lands’ means lands other than forestland.**

21 **“(6) ‘Party’ means Clackamas County or a Clackamas County em-**
22 **ployee or a producer or dealer that carries out activities or engages in**

1 transactions regarding the Clackamas Forestry Product Cooperative
2 Project.

3 “(7) ‘Producer’ means a possessor of land on which trees are grown
4 for harvesting as forestry products.

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

13 **“(2) It is the intent of sections 1 to 7 of this 2015 Act to displace**
14 **competition through a regulatory system for the commercial pro-**
15 **duction and marketing of forestry products on nonforest land under**
16 **a Clackamas County program, referred to in sections 1 to 7 of this 2015**
17 **Act as the Clackamas Forestry Product Cooperative Project, to a lim-**
18 **ited degree and for the period specified in subsection (7) of this section.**
19 **The regulatory system is intended to grant immunity from federal and**
20 **state antitrust laws to the Clackamas Forestry Product Cooperative**
21 **Project parties for the limited purposes of allowing the parties to**
22 **bargain collectively and to arrive at a negotiated price for forestry**
23 **products produced on nonforest land within Clackamas County.**

24 **“(3) The activities of any party that comply with the regulatory**
25 **system described in sections 1 to 7 of this 2015 Act and State Forester**
26 **rules for carrying out the regulatory system and the Clackamas**
27 **Forestry Product Cooperative Project may not be considered to be in**
28 **restraint of trade, a conspiracy or combination or any other unlawful**
29 **activity in violation of any provision of ORS 646.705 to 646.826 or fed-**
30 **eral antitrust laws.**

1 **“(4) The State Forester shall actively supervise the conduct of a**
2 **party in negotiating tentative prices for forestry products bought and**
3 **sold as part of the Clackamas Forestry Product Cooperative Project.**
4 **The State Forester shall actively supervise, and establish procedures**
5 **and guidelines for, the negotiations between the parties and shall re-**
6 **view the tentative prices established by those negotiations. The State**
7 **Forester must set the prices for forestry products bought and sold as**
8 **part of the project by formal action before the prices may be imple-**
9 **mented. In setting the prices for the forestry products, the State**
10 **Forester may give consideration to the tentative prices for those**
11 **forestry products negotiated between the parties. The State Forester**
12 **must make any adjustments to previously set prices for forestry pro-**
13 **ducts by formal action before the adjustments may be implemented.**

14 **“(5) The State Forester may compel the parties to take whatever**
15 **action the State Forester considers necessary to:**

16 **“(a) Ensure that the parties are engaging in conduct that is au-**
17 **thorized under sections 1 to 7 of this 2015 Act;**

18 **“(b) Ensure that the policies of this state are being fulfilled under**
19 **the Clackamas Forestry Product Cooperative Project; and**

20 **“(c) Prevent conduct by any of the parties that is not authorized**
21 **by the regulatory system administered by the State Forester or con-**
22 **duct that, in the opinion of the State Forester, does not advance the**
23 **interests of this state in carrying out the regulatory system for the**
24 **Clackamas Forestry Product Cooperative Project.**

25 **“(6) The State Forester may take any actions the State Forester**
26 **deems appropriate to resolve disputes between the parties that involve**
27 **or arise out of the Clackamas Forestry Product Cooperative Project,**
28 **including but not limited to referring the dispute for mediation, arbi-**
29 **tration or hearing.**

30 **“(7) Except as provided in section 7 of this 2015 Act, for the period**

1 prior to July 1, 2019, the Clackamas Forestry Product Cooperative
2 Project shall displace competition regarding the commercial pro-
3 duction and marketing of forestry products on nonforest land in those
4 areas of the county where the project is in effect.

5 “(8) 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 “(9) The State Forester may adopt rules to carry out the State
10 Forester’s authority under sections 1 to 7 of this 2015 Act. The de-
11 partment and the county shall enter into a memorandum of under-
12 standing for the county to reimburse the department for the actual
13 costs to the department of providing services for the benefit of the
14 Clackamas Forestry Product Cooperative Project. Moneys paid by the
15 county as reimbursement shall be deposited in the State Forestry De-
16 partment Account established under ORS 526.060.

17 **“SECTION 3. (1) Clackamas County shall establish the Clackamas**
18 **Forestry Product Cooperative Project as a pilot program. In addition**
19 **to promoting economic development within Clackamas County, the**
20 **purpose of the project shall be to develop a program model for use by**
21 **counties in this state that wish to promote economic development by**
22 **using cooperatives to provide for the commercial production and**
23 **marketing of forestry products from nonforest lands. Subject to sec-**
24 **tion 2 of this 2015 Act, Clackamas County may do the following to**
25 **carry out the pilot program:**

26 “(a) Subject to section 4 of this 2015 Act, negotiate and enter into
27 an agreement with persons, cities or other governmental entities
28 willing to commercially produce forestry products as members of the
29 Clackamas Forestry Product Cooperative Project. The agreement must
30 specify the number, type and location of trees covered by the agree-

1 **ment. The State Forester may impose additional requirements for the**
2 **contents of agreements described in this paragraph.**

3 **“(b) Negotiate with one or more producers and dealers to establish**
4 **the price for the forestry products sold through the cooperative. The**
5 **dealers may negotiate the price for the forestry products through a**
6 **committee that sets forth the views of the dealers and votes on any**
7 **issues being negotiated as authorized by this section, including the**
8 **price for forestry products. However, a person that is both a producer**
9 **and a dealer may not participate in negotiations under this section.**

10 **“(2) A tree that is covered by an agreement under subsection (1)(a)**
11 **of this section must be marked for identification purposes as required**
12 **by the county.**

13 **“(3) An agreement under subsection (1)(a) of this section may not**
14 **be used to alter the supply of buildable land within an urban growth**
15 **boundary.**

16 **“(4) If the land on which a tree subject to the Clackamas Forestry**
17 **Product Cooperative Project is located is sold, the tree shall continue**
18 **to be a tree subject to the Clackamas Forestry Product Cooperative**
19 **Project unless:**

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

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

24 **“SECTION 4. (1) The Clackamas Forestry Product Cooperative**
25 **Project shall operate:**

26 **“(a) In all areas of Clackamas County that are outside of city limits;**

27 **“(b) On residential or commercial properties, or properties owned**
28 **by nonprofit entities, located in a city that elects to allow the project**
29 **within the city limits; and**

30 **“(c) On lands owned by any governmental entity that elects to**

1 participate in the project.

2 “(2) An election by a city or other governmental entity to allow or
3 participate in the project must be by formal action of the governing
4 body for the city or other governmental entity.

5 “(3) Clackamas County may undertake efforts to inform cities and
6 other governmental entities about the Clackamas Forestry Product
7 Cooperative Project and the opportunities for the cities and govern-
8 mental entities to elect to allow or participate in the project.

9 “(4) The county and a city may work jointly to adopt components
10 of the Clackamas Forestry Product Cooperative Project within city
11 limits. A city electing to allow the project to may specify how the
12 project is to be administered within the city limits, including but not
13 limited to specifications regarding land use zoning requirements,
14 maintenance requirements and the issuance of tree removal permits
15 for harvesting of trees enrolled in the program. This subsection does
16 not authorize a city to regulate the project on lands owned by a gov-
17 ernmental entity described in subsection (1)(c) of this section that are
18 located inside city limits.

19 “(5) If a change in city limits causes a property that is participating
20 in the Clackamas Forestry Product Cooperative Project to become lo-
21 cated inside city limits, notwithstanding any other provision of this
22 section, the property may continue to participate in the project under
23 the terms of the agreement described in section 3 (1)(a) of this 2015
24 Act for that property.

25 “(6) Except as provided in subsections (4) and (7) this section, a lo-
26 cal government may not enforce an ordinance to require or prohibit
27 the removal of a tree that is subject to the Clackamas Forestry Prod-
28 uct Cooperative Project. This subsection does not prohibit a local
29 government from:

30 “(a) Enforcing a county ordinance approved by the State Forester

1 for regulating trees subject to the Clackamas Forestry Product Coop-
2 erative Project or regulating land on which a tree that is subject to
3 the project is located;

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

6 “(c) Enforcing a local ordinance regulating a tree that is removed
7 from the Clackamas Forestry Product Cooperative Project;

8 “(d) Exercising the power of eminent domain to acquire fee title to
9 the land on which a tree that is subject to the Clackamas Forestry
10 Product Cooperative Project is located; or

11 “(e) Acting or requiring action to remedy or mitigate a hazardous
12 condition in a tree that presents an imminent threat of serious harm
13 to persons or property.

14 “(7) Subsection (6) of this section does not prevent the application
15 of a local ordinance to require or prohibit the removal of a tree if the
16 tree becomes subject to the Clackamas Forestry Product Cooperative
17 Project more than five years after the tree is planted.

18 “(8) This section does not require a county project coordinator or
19 the State Forester to consent to the inclusion or continued inclusion
20 of a tree in the Clackamas Forestry Product Cooperative Project.

21 **“SECTION 5. The county program model that Clackamas County**
22 **develops through the Clackamas Forestry Product Cooperative Project**
23 **must include, but need not be limited to:**

24 “(1) A training manual to guide counties in establishing and ad-
25 ministering cooperatives for the commercial production and marketing
26 of forestry products on nonforest lands;

27 “(2) Information identifying tree species best suited for use in
28 western Oregon for producing forestry products;

29 “(3) An Internet website for use by the county, producers and
30 dealers to establish agreements under the program;

1 **“(4) Standardized memorandums of understanding setting forth the**
2 **services provided and the terms of program participation;**

3 **“(5) Care instructions and identification of best practices for the**
4 **production of forestry products;**

5 **“(6) Means for identifying and monitoring the status of trees in the**
6 **program; and**

7 **“(7) Materials for the marketing of, and promoting demand for,**
8 **forestry products.**

9 **“SECTION 6. (1) The governing body of Clackamas County shall**
10 **appoint an advisory committee to provide the county with recom-**
11 **mendations regarding the structure and operation of the Clackamas**
12 **Forestry Product Cooperative Project in a successful manner, includ-**
13 **ing but not limited to recommendations for addressing the concerns**
14 **of the local governments and business interests within the county and**
15 **recommendations regarding the marketing of forestry products.**

16 **“(2) To the extent practicable, the advisory committee appointed**
17 **under subsection (1) of this section shall include but need not be lim-**
18 **ited to representatives from:**

19 **“(a) The Association of Oregon Counties;**

20 **“(b) The League of Oregon Cities;**

21 **“(c) The Department of Transportation;**

22 **“(d) A conservation organization;**

23 **“(e) The forest products industry;**

24 **“(f) The nursery products industry; and**

25 **“(g) The Oregon Wood Innovation Center operated by Oregon State**
26 **University.**

27 **“SECTION 7. The State Forester may terminate the Clackamas**
28 **Forestry Product Cooperative Project if the State Forester determines**
29 **that the project is not being conducted in accordance with sections 1**
30 **to 7 of this 2015 Act or rules adopted under section 2 of this 2015 Act.**

1 **“SECTION 8. (1) Clackamas County shall report on progress in the**
2 **development of the Clackamas Forestry Product Cooperative Project**
3 **described in sections 1 to 7 of this 2015 Act:**

4 **“(a) To an interim committee of the Legislative Assembly dealing**
5 **with economic development during September 2015;**

6 **“(b) To the 2016 regular session of the Legislative Assembly; and**

7 **“(c) To an interim committee of the Legislative Assembly dealing**
8 **with economic development during September 2016.**

9 **“(2) The reports made under this section must be accompanied by**
10 **accountings sufficient to establish that expenditures of moneys de-**
11 **scribed in section 9 of this 2015 Act are used solely for the purpose of**
12 **developing, implementing and administering the Clackamas Forestry**
13 **Product Cooperative Project.**

14 **“(3) The county shall make all reasonable efforts to implement and**
15 **make the Clackamas Forestry Product Cooperative Project fully oper-**
16 **ational no later than June 1, 2017.**

17 **“SECTION 9. There is allocated, for the biennium beginning July**
18 **1, 2015, from the Administrative Services Economic Development**
19 **Fund, to Clackamas County, the amount of \$750,000 as a grant for the**
20 **purpose of developing, implementing and administering the Clackamas**
21 **Forestry Product Cooperative Project described in sections 1 to 7 of**
22 **this 2015 Act.**

23 **“SECTION 10. (1) Sections 1 to 7 of this 2015 Act are repealed Jan-**
24 **uary 2, ____.**

25 **“(2) Any activities under an agreement entered into as part of the**
26 **pilot program described in sections 1 to 7 of this 2015 Act must cease**
27 **on or before the repeal date established in subsection (1) of this sec-**
28 **tion.**

29 **“SECTION 11. This 2015 Act being necessary for the immediate**
30 **preservation of the public peace, health and safety, an emergency is**

1 **declared to exist, and this 2015 Act takes effect July 1, 2015.”.**

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