

# Senate Bill 755

Sponsored by Senators OLSEN, BAERTSCHIGER JR, JOHNSON; Senator KRUSE

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies limitation of liability for activities related to certain land improvement projects.

### A BILL FOR AN ACT

1  
2 Relating to limitation of liability for activities related to certain land improvement projects;  
3 amending ORS 496.270.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 496.270 is amended to read:

6 496.270. (1) The Legislative Assembly declares that it is the policy of the State of Oregon to  
7 encourage [*operators, timber owners and landowners to voluntarily improve*] **the voluntary im-**  
8 **provement of** fish and wildlife habitat. [*In order to carry out this policy, the Legislative Assembly*  
9 *encourages cooperation among operators, timber owners and landowners and other volunteers.*]

10 (2) Consistent with the limitations of ORS 105.672 to 105.696, a landowner is not liable in con-  
11 tract or tort for any personal injury, death or property damage that arises out of the use of the land  
12 by:

13 (a) A volunteer conducting a fish and wildlife habitat improvement project; or

14 (b) A participant of a state-funded or federally funded watershed or stream restoration or en-  
15 hancement program.

16 (3) An [*operator, timber owner*] **operator or timber owner, as those terms are defined in ORS**  
17 **527.620**, or a landowner [*shall not*] **may not** be held liable for any damages resulting from:

18 (a) A fish and wildlife habitat improvement project done in cooperation and consultation with  
19 the State Department of Fish and Wildlife or the Oregon Watershed Enhancement Board, or con-  
20 ducted as part of a forest management practice in accordance with ORS 527.610 to 527.770, 527.990  
21 and 527.992; or

22 (b) Leaving large woody debris within the waters of this state to protect, retain and recruit  
23 large woody debris for the purposes of fish habitat and water quality improvement.

24 (4) The limitations to liability provided by subsections (2) and (3) of this section do not apply if  
25 the damages, injury or death was caused by willful, wanton or intentional conduct on the part of the  
26 operator, timber owner or landowner or by the gross negligence of the operator, timber owner or  
27 landowner. As used in this subsection "gross negligence" means negligence which is materially  
28 greater than the mere absence of reasonable care under the circumstances, and which is charac-  
29 terized by indifference to or reckless disregard of the rights of others.

30 (5) The limitation on liability provided by subsection (3) of this section does not apply to:

31 (a) Claims for death or personal injuries[.]; or

32 (b) **Claims against landowners who are also responsible for the project design or con-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 **struction of an activity listed in subsection (3) of this section and who are not landowners**  
2 **as that term is defined in ORS 527.620.**

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