



HB 2315: A TECHNICAL FIX CLARIFYING LEGISLATIVE INTENT & ENABLING DIVISION OF LAND FOR NONCOMMERCIAL OPEN SPACE PURPOSES

PURPOSE. Oregon Rep. Daniel Bonham introduced HB 2315 which modifies subsection 10 of ORS 215.203 (Zoning ordinances establishing exclusive farm use (EFU) zones) regarding division of land by eliminating purchase requirement when land is acquired by provider of public parks or open space, or by not-for-profit land conservation organization.

CURRENT LIMITATIONS. The statutes in question only allow for division of land for non-commercial open space purposes only under a sale transaction. It does not allow for donations. This limitation places undue burden on well-intentioned parties interested in transacting under a shared commitment to steward and manage open spaces for conservation purposes.

IMPLICATIONS OF THE CURRENT STATUTE. To circumvent the limitation placed by statute, a property could be sold for a nominal amount, sometimes as low \$1.00. However, conveyance to certain providers of public parks or open spaces and federal land management agencies, such as the U.S. Forest Service, cannot happen as a donation. Regardless of transaction amount, such a transfer would trigger a very arduous and expensive federal acquisition process at the full fair market value of the property. Such sale of conservation land by a private landowner for a nominal amount is likely to force the transaction to become a bargain sale as opposed to an outright donation and undermine the intent to donate. HB 2315 makes a technical fix to ORS 215.203 allowing for an alignment with the original intent of enacting zoning ordinances establishing exclusive farm use zones which never intended to limit donations on acquisitions of land by a provider of public parks or open space, or by not-for-profit land conservation organization.

ORIGINAL INTENT OF THE LAW. The original version of ORS 215.263 was passed in 1973 containing four sections that granted the applicable governing bodies some authority over divisions of land in EFU zones. Over the years various amendments were added to the statute which expanded this authority to more specific circumstances. In 1999, there was an amendment to add a section 9, which corresponds to current 215.263(10)-the subject of HB 2315. There was no discussion relating to the use of the word “purchase” in the statute, but it is evident that the law’s overriding purpose was to reduce the cost of acquiring land for public spaces, while having the additional benefit of allowing people to stay in their homes, and their homes to stay on the tax rolls. The current amendment is clearly consistent with the purpose of reducing the acquisition costs of land to be dedicated to a beneficial public use.

NO TAX IMPLICATION. Transfers of property under this statute have been to nonprofit land trusts, public bodies, or to the federal government. Lands held by land trusts, the United States, or by most municipalities, counties or other public bodies are generally exempt from taxation (See ORS 307.040 and 307.090). ORS 215.263(10) allows for such transfers, and thus takes land off the tax rolls. However, the statute allows landowners who own a homesite on conservation land to sell the bulk of their land to a conservation organization without having to sell the home/dwelling along with it. The homeowner can continue to reside on the property and the homesite stays on the tax rolls. This amendment would not change current tax implications other than to expand the option to landowners who wish to donate rather than sell their property.