

## HB 2315: FREQUENTLY ASKED QUESTIONS

### What does HB 2315 do?

HB 2315 proposes a technical fix to Oregon's Exclusive Farm Use (EFU) zoning statute to facilitate the protection of conservation land and open spaces by allowing EFU land to be divided and then donated to providers of such services, as opposed to requiring a sale. Currently, ORS 215.263(10)(a) limits "land division for the purposes of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to **purchase** at least one of the resulting parcels". HB 2315 deletes the word "**purchase**" in subsection 10(a)(A) and replace it with the word "**acquire**".

### What was the original legislative intent in allowing for land transfers to benefit conservation under ORS 215.263 EFU zoning statutes?

The original version of ORS 215.263 was passed in 1973 and contained four sections which 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 our current pending legislation. The legislative history behind that amendment adds context to the current situation.

The principle proponent of the 1999 amendment (SB 838) was Portland Metro, more particularly, the Open Spaces, Parks and Streams program. This program was funded by a \$135.6 million bond measure approved by voters in 1995. Through this program Metro had acquired land for use as parks. In a letter to the legislative chair it noted that "(m)any landowners have indicated to Metro that they would desire to see their land preserved for the benefit of future generations of Oregonians, but **\*\*\*(were)\*\*\*** not ready to sell their homes." Metro indicated that the legislation would:

"Allow lot line adjustments so landowners can retain existing residences while selling surrounding acreage to Metro for permanent open space and natural habitat protection.

Keep existing houses in natural areas in private ownership and enjoyment, thus not unnecessarily taking houses out of the market and off the property tax roles (*sic*).

Save taxpayer funds by not having to purchase such residences.

Allow for effective park development to meet Oregonians' growing demand for safe, accessible park facilities."

There were no discussions 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.

### **Who does this bill benefit?**

The Nature Conservancy has requested Rep. Daniel Bonham to introduce HB 2315 on behalf of itself, other land trusts and not-for-profit organizations that have been limited in moving forward with transfers of properties where such transaction is guided by an altruistic intent; or when the process of transferring a property to another provider of public parks or open space happens to be a public entity such as a public entity (a state or federal government) which requires a full fair market price transaction process even if the transaction amount is a nominal amount.

### **How does this bill impact state property taxes?**

Under Oregon's EFU zoning statutes, a landowner can partition property within a minimum acreage of 80 to 160 acres. A variance is allowed for conveyances to a conservation organization or providers of parks and open space. The variance applies to the remaining homesite and no minimum acreage size is specified but the resulting parcel must be large enough to support continued residential use of the parcel including functioning of a well and septic system.

Transfers of property under this ORS 215.263(10) have been to nonprofit land trusts, public bodies, or to the federal government. Lands held by land trusts, the United States government, 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 also 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. Therefore, the proposed amendment would not change current tax implications other than to expand the option to landowners who wish to donate rather than sell their property.

### **Who supports this bill?**

The Coalition of Oregon Land Trusts (comprising of 21 organizational members across all corners of Oregon), The Nature Conservancy, *Sustainable Northwest (Pending)*