

House Bill 2456

Sponsored by Representative FINDLEY (Presession filed.)

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**.

Allows counties to rezone lands within Eastern Oregon Border Economic Development Region from exclusive farm use to residential uses.

Continues any applicable farm use tax deferral and valuation on properties in region until redeveloped for sale or five years after rezoning. Applies to property tax years beginning on or after July 1, 2020.

Entitles owner to income tax credit of up to \$5,000 on sale of new residential dwelling on rezoned property. Applies to tax years beginning on or after January 1, 2020, and before January 1, 2026.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to Eastern Oregon Border Economic Development Region housing; creating new provisions;
3 amending ORS 308A.703; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 215.**

6 **SECTION 2. (1) Notwithstanding any land use planning goal related to urbanization or**
7 **agricultural lands, a county may rezone lands that are zoned for exclusive farm use and**
8 **within the Eastern Oregon Border Economic Development Region, as defined in ORS 284.771,**
9 **to residential zoning, provided that:**

10 (a) **The lands have not been employed for farm use in the prior three years;**

11 (b) **The lands are not high-value farmland, as defined in ORS 195.300, or viable for rea-**
12 **sonably obtaining a profit through a farm use;**

13 (c) **Rezoning will not force a significant change in accepted farm or forest practices on**
14 **surrounding lands devoted to farm or forest use;**

15 (d) **If the water source for the lands is a well, the lands are not within a critical ground**
16 **water area as designated under ORS 537.730 to 537.740 or within any area in which ground**
17 **water withdrawals have been restricted by the Water Resources Commission; and**

18 (e) **In the preceding 10 years, the lands have not been assessed for property tax purposes**
19 **as:**

20 (A) **Open space use under ORS 308A.300 to 308A.330;**

21 (B) **Riparian habitat under ORS 308A.350 to 308A.383;**

22 (C) **Wildlife habitat under ORS 308A.403 to 308A.430; or**

23 (D) **A conservation easement under ORS 308A.450 to 308A.465.**

24 (2) **Upon rezoning lands under this section, the county shall file with the county assessor**
25 **a statement listing the tax lots to which the change in zoning applies and the applicable date**
26 **of the change.**

27 **SECTION 3. Section 4 of this 2019 Act is added to and made a part of ORS 308A.050 to**

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 **308A.128.**

2 **SECTION 4. (1) As used in this section:**

3 (a) **“Date of rezoning” means the applicable date of a zoning change under section 2 of**
 4 **this 2019 Act.**

5 (b) **“Newly constructed dwelling” means a dwelling for which construction or develop-**
 6 **ment began on or after the date of rezoning.**

7 (2) **Notwithstanding ORS 308.146 (3) and 308A.113 and subject to subsection (3) of this**
 8 **section, property that qualified for a farm use special assessment under ORS 308A.050 to**
 9 **308A.128 immediately before the date of rezoning from exclusive farm use to residential use**
 10 **under section 2 of this 2019 Act:**

11 (a) **Maintains its special assessment under ORS 308A.050 to 308A.128;**

12 (b) **Has a value, assessed value and a maximum assessed value calculated in the manner**
 13 **provided under ORS 308A.107 based on the crops and acreage of the farm use on the property**
 14 **immediately prior to the date of rezoning; and**

15 (c) **May not have any newly constructed dwellings assessed as improvements under ORS**
 16 **308.146 or 308A.110.**

17 (3) **The property described in subsection (2) of this section is disqualified from special**
 18 **assessment and assessed under ORS 308.146 and may be subject to additional tax liability or**
 19 **deferred taxes under ORS 308.050 to 308.128 and 308A.700 to 308A.733 in the property tax year**
 20 **beginning the July 1 immediately following the earliest of the following:**

21 (a) **The issuance of an occupancy permit under ORS 455.055 for a newly constructed**
 22 **dwelling on the property; or**

23 (b) **Five years from the date of rezoning.**

24 **SECTION 5. ORS 308A.703 is amended to read:**

25 308A.703. (1) This section applies to land upon the land’s disqualification from special assess-
 26 ment under any of the following sections:

27 (a) Exclusive farm use zone farmland under ORS 308A.113;

28 (b) Nonexclusive farm use zone farmland under ORS 308A.116;

29 (c) Western Oregon designated forestland under ORS 321.359;

30 (d) Eastern Oregon designated forestland under ORS 321.842;

31 (e) Wildlife habitat special assessment under ORS 308A.430; [or]

32 (f) Conservation easement special assessment under ORS 308A.465[.]; or

33 (g) **Exclusive farm use lands rezoned as residential lands that are disqualified under**
 34 **section 4 (3) of this 2019 Act.**

35 (2) Following a disqualification listed in subsection (1) of this section, an additional tax shall
 36 be added to the tax extended against the land on the next assessment and tax roll, to be collected
 37 and distributed in the same manner as other ad valorem property tax moneys. The additional tax
 38 shall be equal to the difference between the taxes assessed against the land and the taxes that would
 39 otherwise have been assessed against the land, for each of the number of years determined under
 40 subsection (3) of this section.

41 (3) The number of years for which additional taxes shall be calculated shall equal the lesser of
 42 the number of consecutive years the land had qualified for the special assessment program for which
 43 disqualification has occurred or:

44 (a) Ten years, in the case of exclusive farm use zone farmland, **including farmland disqualified**
 45 **as described in subsection (1)(g) of this section**, but only if the land, immediately following dis-

1 qualification, remains outside an urban growth boundary;

2 (b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm
 3 use zone, but only if the land, immediately following disqualification, remains outside an urban
 4 growth boundary;

5 (c) Ten years, in the case of conservation easement special assessment land within an exclusive
 6 farm use zone, but only if the land, immediately following disqualification, remains outside an urban
 7 growth boundary; or

8 (d) Five years, in the case of:

9 (A) Nonexclusive farm use zone farmland;

10 (B) Western Oregon designated forestland;

11 (C) Eastern Oregon designated forestland;

12 (D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection;

13 (E) Wildlife habitat special assessment land that is not described in paragraph (b) of this sub-
 14 section; or

15 (F) Conservation easement special assessment land that is not described in paragraph (c) of this
 16 subsection.

17 (4)(a) Except as provided in paragraph (b) of this subsection, if disqualification under subsection
 18 (1)(a) or (b) of this section occurs within five years after the end of a period of farm use special
 19 assessment pursuant to a remediation plan as defined in ORS 308A.053, the number of years for
 20 which the additional tax shall be calculated shall be the number of years determined under sub-
 21 section (3) of this section plus the number of years during which farm use special assessment was
 22 granted pursuant to the remediation plan.

23 (b) Additional tax may not be collected for the number of years during which farm use special
 24 assessment was granted pursuant to the remediation plan if the plan:

25 (A) Is implemented in good faith; and

26 (B) Fails to render continued farm use practicable.

27 (5) The additional taxes described in this section shall be deemed assessed and imposed in the
 28 year to which the additional taxes relate.

29 (6) If the disqualification of the land is the result of the sale or transfer of the land to an own-
 30 ership making the land exempt from ad valorem property taxation, the lien for additional taxes shall
 31 attach as of the day preceding the sale or transfer.

32 (7) The amount determined to be due under this section may be paid to the tax collector prior
 33 to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

34 **SECTION 6. Section 4 of this 2019 Act and the amendments to ORS 308A.703 by section**
 35 **5 of this 2019 Act apply to property tax years beginning on or after July 1, 2020.**

36 **SECTION 7. Section 8 of this 2019 Act is added to and made a part of ORS chapter 315.**

37 **SECTION 8. (1) As used in this section, “Eastern Oregon Border Economic Development**
 38 **Region housing” means property rezoned as residential property under section 2 of this 2019**
 39 **Act on which are constructed one or more residential dwelling units that:**

40 (a) Have an occupancy permit that was issued under ORS 455.055;

41 (b) Are not dwellings or replacement dwellings authorized under ORS 215.130 (6), 215.213,
 42 215.283, 215.284, 215.317 or 215.700 to 215.780 or section 2, chapter 462, Oregon Laws 2013; and

43 (c) Were not under construction at any point before the property was rezoned.

44 (2) A taxpayer who sells Eastern Oregon Border Economic Development Region housing
 45 to a buyer intending to occupy the dwelling unit as the buyer’s primary residence is allowed

1 a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident
 2 individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a
 3 corporation. The total amount of the credit is equal to the lesser of \$5,000 or three percent
 4 of the sale price of the residential property.

5 (3) A tax credit allowed under this section may not be sold or transferred, with the ex-
 6 ception that a tax credit that a partnership, limited liability company, S corporation or other
 7 pass-through entity is entitled to claim may be allocated to the partners, members or
 8 shareholders of the entity for their direct use in accordance with the provisions of any
 9 agreement among the partners, members or shareholders.

10 (4) Except as provided under subsection (5) of this section, the tax credit allowed in any
 11 one tax year may not exceed the tax liability of the taxpayer.

12 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 13 in a particular tax year may be carried forward and offset against the taxpayer's tax liability
 14 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
 15 year may be carried forward and used in the second succeeding tax year but may not be
 16 carried forward for any tax year thereafter.

17 (6) The taxpayer's adjusted basis for determining gain or loss may not be decreased by
 18 any tax credits allowed under this section.

19 (7)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the De-
 20 partment of Revenue may order the disallowance of the tax credit allowed under this section
 21 if it finds, by order, that the tax credit was obtained by fraud or misrepresentation.

22 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS
 23 314.410 or other law, all prior tax relief provided to the taxpayer must be forfeited and the
 24 Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a
 25 result of the tax credit.

26 (c) If the tax credit is disallowed pursuant to this subsection, the taxpayer is not eligible
 27 for any further credit for the sale of any Eastern Oregon Border Economic Development
 28 Region housing under this section from and after the date that the order of disallowance
 29 becomes final.

30 (8)(a) A nonresident individual is allowed the tax credit computed in the same manner
 31 and subject to the same limitations as the credit allowed a resident by this section. However,
 32 the credit must be prorated using the proportion provided in ORS 316.117.

33 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 34 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the
 35 credit allowed by this section must be prorated or computed in a manner consistent with
 36 ORS 314.085.

37 (c) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 38 ident to resident occurs, the credit allowed by this section is determined in a manner con-
 39 sistent with ORS 316.117.

40 (9) The Department of Revenue may adopt rules for carrying out the provisions of this
 41 section.

42 **SECTION 9.** (1) Except as provided in subsection (2) of this section, a credit under section
 43 8 of this 2019 Act may be claimed for tax years beginning on or after January 1, 2020.

44 (2) Except as provided by section 8 (5) of this 2019 Act, a credit may not be claimed under
 45 section 8 of this 2019 Act for tax years beginning on or after January 1, 2026.

1 **SECTION 10.** This 2019 Act takes effect on the 91st day after the date on which the 2019
2 regular session of the Eightieth Legislative Assembly adjourns sine die.
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