

## SENATE AMENDMENTS TO SENATE BILL 1502

By COMMITTEE ON FINANCE AND REVENUE

February 24

- 1 On page 1 of the printed bill, delete lines 5 through 28.  
2 Delete pages 2 through 6 and insert:  
3 **“SECTION 1. Sections 2 to 6 of this 2022 Act are added to and made a part of ORS**  
4 **chapter 315.**  
5 **“SECTION 2. (1) As used in sections 2 to 6 of this 2022 Act:**  
6 **“(a) ‘Common ownership’ means direct ownership by one or more individuals or owner-**  
7 **ship by a corporation, partnership, association or other entity in which an individual owns**  
8 **a significant interest.**  
9 **“(b) ‘Dry channel area’ means that area between the inside edge of the small forest**  
10 **owner minimum option and the edge of the dry stream channel that:**  
11 **“(A) Is within a surveyed dry channel portion of a small nonfish perennial stream in**  
12 **Western Oregon that under the small forest owner minimum option is a required no-harvest**  
13 **buffer;**  
14 **“(B) Does not flow water year-round; and**  
15 **“(C) Is 100 feet or more in length.**  
16 **“(c) ‘Forest conservation area’ means a riparian forestland area that is not harvested,**  
17 **that is adjacent to a harvested riparian area and that is the excess riparian area allowed for**  
18 **harvest under the small forest owner minimum option beyond that allowed under the**  
19 **standard practice harvest restrictions, and any adjacent dry channel area.**  
20 **“(d) ‘Forestland’ has the meaning given that term in ORS 527.620.**  
21 **“(e) ‘Professional forester’ means a person that is engaged in the business of appraising**  
22 **or valuing timber or forestland as described in ORS 674.100.**  
23 **“(f) ‘Small forestland owner’ means a person that owns or holds common ownership in**  
24 **fewer than 5,000 acres of forestland.**  
25 **“(g) ‘Small forest owner minimum option’ means the option to harvest timber allowed**  
26 **to a small forestland owner under rules adopted under the Oregon Forest Practices Act.**  
27 **“(h) ‘Standard practice harvest restrictions’ means the harvest restrictions applicable to**  
28 **large forestland owners under the Oregon Forest Practices Act.**  
29 **“(i) ‘Stumpage value’ means the value of standing timber based on the value that would**  
30 **be received for the timber if harvested and delivered to a mill, minus the cost of harvest and**  
31 **delivery to the mill.**  
32 **“(j) ‘Timber harvest’ means a harvest type 1, harvest type 2 or harvest type 3, as those**  
33 **terms are defined in ORS 527.620.**  
34 **“(k) ‘Western Oregon’ means that area west of the crest of the Cascade Mountains.**  
35 **“(2)(a) A credit against taxes that are otherwise due under ORS chapter 316 or, if the**

1 taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that is a  
2 small forestland owner that is eligible to conduct a timber harvest using a small forest owner  
3 minimum option and elects to use standard practice harvest restrictions instead. The credit  
4 shall be allowed for the tax year in which the timber harvest is completed.

5 “(b) A credit under this section may not be transferred to a successor forestland owner.

6 “(3) In order to be eligible for a credit under this section, a small forestland owner must:

7 “(a) Have harvested not more than two million board feet of merchantable forest pro-  
8 ducts from forestland in this state owned by the small forestland owner, as averaged over  
9 the three years immediately preceding the date of filing a notification of operation as de-  
10 scribed in section 3 of this 2022 Act;

11 “(b) Conduct a timber harvest in an area that is:

12 “(A) Adjacent to a riparian area subject to the Oregon Forest Practices Act; and

13 “(B) Equal in size to or larger than that portion of the forest conservation area that the  
14 small forestland owner elects not to harvest and upon which the small forestland owner  
15 claims the credit; and

16 “(c) Abide by the standard practice harvest restrictions, which shall remain in effect for  
17 the forest conservation area for which the small forestland owner claims the credit for 50  
18 years beginning with the date on which the certification is issued under section 3 of this 2022  
19 Act.

20 “(4) The amount of the credit allowed under this section shall be based on the stumpage  
21 value of timber within the forest conservation area and shall be calculated as provided in  
22 section 4 of this 2022 Act.

23 “(5) Prior to claiming the credit allowed under this section, a small forestland owner is  
24 required to receive written certification of eligibility from the State Forestry Department,  
25 as provided in section 3 of this 2022 Act.

26 “(6) Upon the death of a small forestland owner that holds a certification under section  
27 3 of this 2022 Act, and to the extent that any amount of credit remains, the credit allowed  
28 under this section:

29 “(a) May be used by the executor of the small forestland owner’s estate:

30 “(A) As a credit against taxes imposed under ORS chapter 316, 317 or 318; and

31 “(B) As provided in section 9 of this 2022 Act, as a credit against estate tax imposed  
32 under ORS chapter 118 on the estate of the small forestland owner; and

33 “(b) May be used, to the extent remaining after application of paragraph (a) of this sub-  
34 section, by the heirs or devisees of the small forestland owner as a credit against the taxes  
35 imposed under ORS chapter 316, 317 or 318.

36 “(7) The credit allowed under this section may not exceed the tax liability of the taxpayer  
37 for the tax year.

38 “(8) A forest conservation area for which a credit is allowed under this section:

39 “(a) May not be disqualified from eligibility for special assessment as forestland under  
40 ORS 321.257 to 321.390 or 321.805 to 321.855 or from qualification for small tract forestland  
41 assessment under 321.700 to 321.754 solely due to the use of the credit allowed under this  
42 section.

43 “(b) Shall remain eligible for the deferral allowed under ORS 308A.119, if otherwise eligi-  
44 ble.

45 “(c) Shall be classified as described in ORS 321.210 as land class FX.

1           “(9) Any tax credit otherwise allowable under this section that is not used by the tax-  
2 payer in a particular tax year may be carried forward and offset against the taxpayer’s tax  
3 liability in any succeeding tax year thereafter, and may be carried forward to nonconsecutive  
4 tax years.

5           “(10) A nonresident shall be allowed the credit under this section. The credit shall be  
6 computed in the same manner and be subject to the same limitations as the credit granted  
7 to a resident.

8           “(11) The State Forestry Department, after consultation with the Department of Re-  
9 venue, shall adopt rules for the purposes of sections 2 to 6 of this 2022 Act, including policies  
10 and procedures for certifying taxpayers as eligible for the credit allowed under this section  
11 as required in section 3 of this 2022 Act.

12           “(12) The Department of Revenue shall adopt rules for the purposes of sections 2 to 6 of  
13 this 2022 Act.

14           “**SECTION 3.** (1) In order to obtain certification of eligibility from the State Forestry  
15 Department for a tax credit allowed under section 2 of this 2022 Act, a small forestland  
16 owner must:

17           “(a) File, as provided in ORS 527.670, a notification of operation with the State Forester  
18 for an operating area that includes the forest conservation area for which the small  
19 forestland owner seeks a credit under section 2 of this 2022 Act;

20           “(b) Indicate in the notification of operation that the small forestland owner intends to  
21 use the standard practice harvest restrictions in lieu of the small forest owner minimum  
22 option;

23           “(c) Submit to the department an application for certification under this section; and

24           “(d) Provide documentation of stumpage values and costs of appraisal to the department  
25 after filing the notification of operation and within three months after the timber harvest  
26 has been completed.

27           “(2) The State Forestry Department shall timely provide written certification to taxpay-  
28 ers that are eligible to claim the credit under section 2 of this 2022 Act.

29           “(3) A small forestland owner that receives certification under this section must:

30           “(a) Sign and record in the deed records for the county where the eligible forest conser-  
31 vation area is located an irrevocable deed restriction prohibiting the owner and the owner’s  
32 successors in interest from conducting a harvest or otherwise removing trees within the  
33 forest conservation area for which a credit has been claimed. The deed restriction shall allow  
34 for incidental tree removal and for tree removal for public safety purposes. The deed re-  
35 striction shall specify the amount of the credit and the expiration date of the harvest re-  
36 striction on the forest conservation area. The State Forestry Department shall provide the  
37 small forestland owner with appropriate documentation for this purpose.

38           “(b) Maintain the written documentation of the amount certified for tax credit under this  
39 section, and the amount of credit claimed, in its records as long as any tax return remains  
40 open for years in which the credit has been claimed, and provide the written documentation  
41 to the Department of Revenue upon request.

42           “(c) Provide documentation of all costs claimed as part of the credit, including costs of  
43 appraisal and costs to file and record the deed restriction required under this section.

44           “(d) Notify any immediate successor owner of the forest conservation area of the terms  
45 of the credit and the potential obligation of successor owners to repay the amount of credit

1 allowed upon violation of the applicable harvest restrictions as described in section 5 of this  
2 2022 Act.

3 “(4) The State Forestry Department shall:

4 “(a) Maintain in the department reporting and notice system operated under ORS 527.786  
5 to 527.793 records of harvest restrictions applicable to certifications issued under this sec-  
6 tion.

7 “(b) Provide information to the Department of Revenue about all certifications issued  
8 under this section, if required by the Department of Revenue under ORS 315.058.

9 “SECTION 4. (1) The amount of the tax credit allowed under section 2 of this 2022 Act  
10 shall be the sum of:

11 “(a) The certified stumpage value of standing timber in that portion of the forest con-  
12 servation area that is not harvested as a result of using the standard practice harvest re-  
13 strictions in lieu of the small forest owner minimum option, using the standard measuring  
14 techniques of professional foresters;

15 “(b) The cost to the small forestland owner of establishing the stumpage value, including  
16 the cost of appraisal performed by a professional forester, and of filing and recording a deed  
17 restriction as described in section 3 (3) of this 2022 Act; and

18 “(c) If applicable, one-half of the certified stumpage value of retained timber in a dry  
19 channel area adjacent to the forest conservation area.

20 “(2) If the small forestland owner is barred from using the small forest owner minimum  
21 option by the horizontal lineal feet limitation applicable to fifth field watersheds, the certified  
22 stumpage value described in subsection (1)(a) of this section shall be multiplied by 125 per-  
23 cent.

24 “(3) The applicable stumpage values under this section shall be the values as of the date  
25 of filing a notification of operation under ORS 527.670, as described in section 3 (1)(a) of this  
26 2022 Act, and shall be calculated using one of the following methods:

27 “(a) The conversion return method, in which the volume of timber being retained is de-  
28 termined by species and log grades, and a value is established from current delivered log  
29 price information, less a reasonable cost for harvest and delivery, for the area in which the  
30 retained timber would ordinarily be sold.

31 “(b) The actual comparison method, which may be used if the timber being retained is  
32 similar in species and log grades to the timber being harvested, and which is calculated using  
33 actual revenues from the timber being harvested by the small forestland owner in the har-  
34 vest area adjacent to the forest conservation area.

35 “(c) The cash flow modeling method, in which the value of standing timber is determined  
36 by using the projected volume of the stand over a harvest rotation based on species and site  
37 class, determining the value at harvest age and then discounting the value to the present  
38 date using an interest rate equal to the direct farm ownership loan interest rate of the Farm  
39 Service Agency of the United States Department of Agriculture.

40 “(4) Costs, including the cost of an appraisal and the cost of filing and recording a deed  
41 restriction, may be included in the credit amount only to the extent that the amount at-  
42 tributable to those costs is not claimed as an income tax deduction by the taxpayer.

43 “SECTION 5. (1) If a small forestland owner, or the owner’s estate, heirs or devisees,  
44 elects to conduct a timber harvest within a forest conservation area for which a tax credit  
45 has been allowed under section 2 of this 2022 Act and for which a harvest restriction has

1 been recorded or otherwise elects to remove the harvest restriction, the certification of the  
2 credit shall be revoked and the Department of Revenue may proceed to collect any amounts  
3 not paid as a result of the credit, as provided in ORS 315.061.

4 “(2)(a) If the timber harvest or the removal of a harvest restriction that results in re-  
5 vocation is conducted by an owner other than the small forestland owner that originally re-  
6 ceived certification for the credit under section 3 of this 2022 Act, that successor owner shall  
7 be liable for the entire amount certified for credit under section 3 of this 2022 Act. Interest  
8 shall be charged at the rate established in ORS 305.220 from the date of transfer of the title  
9 to the successor owner.

10 “(b) A revocation under this subsection does not impair the right of a prior owner to  
11 claim the credit.

12 “(3) After repayment is complete, the small forestland owner shall notify the State  
13 Forestry Department of the repayment and the department shall remove the record of the  
14 harvest restriction from the department reporting and notice system operated under ORS  
15 527.786 to 527.793. The small forestland owner shall cause the deed restriction to be removed  
16 from the county deed records. The department shall provide the small forestland owner with  
17 appropriate documentation for this purpose.

18 “(4) The small forestland owner that conducts the timber harvest shall be responsible for  
19 any penalties imposed for violations of the Oregon Forest Practices Act arising from the  
20 harvest.

21 “SECTION 6. If the credit allowed under section 2 of this 2022 Act is repealed, or is al-  
22 lowed by the Legislative Assembly to expire, taxpayers that have previously received certi-  
23 fication shall be allowed to continue to claim the credit. Any deed restrictions associated  
24 with the credit shall be retained.

25 “SECTION 7. Notwithstanding ORS 315.037, section 2 of this 2022 Act applies to all tax  
26 years beginning on or after January 1, 2023.

27 “SECTION 8. Section 9 of this 2022 Act is added to and made a part of ORS chapter 118.

28 “SECTION 9. (1) The definitions in section 2 of this 2022 Act apply to this section.

29 “(2) If, at the date of death, a decedent held the certification for a credit under section  
30 2 of this 2022 Act, the estate of the decedent shall be allowed a credit for use of the small  
31 forest owner minimum option, as provided in section 2 of this 2022 Act, to the extent that  
32 the credit has not been used to offset income taxes.

33 “(3) If the forest conservation area for which a credit under section 2 of this 2022 Act  
34 was allowed is contained in the decedent’s estate, and if the timber in the forest conservation  
35 area is subsequently harvested or otherwise removed in violation of the harvest restriction  
36 recorded for the forest conservation area, the Department of Revenue may impose additional  
37 tax, interest and penalties under ORS 118.005 to 118.540. The additional tax liability shall be  
38 the amount of credit used against the decedent’s taxable estate.

39 “(4) The estate shall provide notice of the amount of credit received to the heirs or  
40 devisees, who will maintain records of the credit used.

41 “(5) Any unused amount of credit may be distributed to the heirs or devisees for use as  
42 a credit against the taxes imposed under ORS chapter 316, 317 or 318.

43 “SECTION 10. Section 9 of this 2022 Act applies to estates of decedents dying on or after  
44 January 1, 2023.

45 “SECTION 11. ORS 314.772 is amended to read:

1 “314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to  
2 a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation.  
3 The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or  
4 are allowable to the shareholders of the S corporation.

5 “(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on  
6 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s  
7 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
8 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
9 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
10 manner prescribed under section 1377(a) of the Internal Revenue Code.

11 “(3) The character of any item included in a shareholder’s pro rata share under subsection (2)  
12 of this section shall be determined as if such item were realized directly from the source from which  
13 realized by the corporation, or incurred in the same manner as incurred by the corporation.

14 “(4) If the shareholder is a nonresident and there is a requirement applicable for the business  
15 tax credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
16 316.117, then that provision shall apply to the nonresident shareholder.

17 “(5) As used in this section, ‘business tax credit’ means the following credits: ORS 315.104  
18 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
19 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture  
20 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS  
21 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee  
22 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution  
23 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy  
24 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-  
25 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-  
26 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),  
27 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS  
28 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS  
29 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643  
30 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account  
31 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone  
32 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research  
33 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,  
34 Oregon Laws 2013 (alternative fuel vehicle contributions), **and section 2 of this 2022 Act (small  
35 forest option).**

36 “**SECTION 12.** ORS 318.031 is amended to read:

37 “318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
38 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
39 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
40 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,  
41 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and  
42 315.643 **and section 2 of this 2022 Act** (all only to the extent applicable to a corporation) and ORS  
43 chapter 317.

44 “**SECTION 13.** **This 2022 Act takes effect on the 91st day after the date on which the 2022**  
45 **regular session of the Eighty-first Legislative Assembly adjourns sine die.”**

