

A-Engrossed
House Bill 2456

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by Representative FINDLEY; Representative SMITH DB (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.

Allows counties to rezone **up to 200 acres of** 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, **and before July 1, 2031.**

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; and prescribing an ef-
3 fective date.

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

5 **SECTION 1. Sections 2 and 2a of this 2019 Act are added to and made a part of ORS**
6 **chapter 215.**

7 **SECTION 2. (1) Notwithstanding any land use planning goal related to urbanization or**
8 **agricultural lands, a county that has established a review board described in section 2a of**
9 **this 2019 Act may rezone lands that are zoned for exclusive farm use and within the Eastern**
10 **Oregon Border Economic Development Region, as defined in ORS 284.771, to allow the de-**
11 **velopment of one residential unit per lot or parcel of two acres or more, provided that:**

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

13 (b) **The lands are not:**

14 (A) **High-value farmland, as defined in ORS 195.300;**

15 (B) **Predominantly composed of Class I, II or III soils; or**

16 (C) **Viable for reasonably obtaining a profit through a farm use;**

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

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

22 (e) **The property owner agrees as a condition of approval of the rezoning to sign and re-**
23 **cord in the county deed records an irrevocable deed restriction in the form prescribed by the**
24 **county acknowledging the protected rights of farm, forest and rangeland practices in the**

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 area and prohibiting the owner and the owner's successors in interest from pursuing a cause
2 of action or claim of relief alleging an injury from any farming, forest or rangeland practices
3 for which no claim or action is allowed under ORS 30.936 or 30.937 or otherwise protected
4 by law as farming, forest or rangeland practice;

5 (f) The rezoning complies with any other criteria adopted by the county;

6 (g) The approval would not result in a cumulative total of more than 200 acres rezoned
7 by the county under this section;

8 (h) The rezoning has received a public hearing and a written opinion from a review board
9 established under section 2a of this 2019 Act; and

10 (i) In the preceding 10 years, the lands have not been assessed for property tax purposes
11 as:

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

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

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

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

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

19 **SECTION 2a.** (1) A county with lands within the Eastern Oregon Border Economic De-
20 velopment Region, as defined in ORS 284.771, may establish a review board that consists of
21 four members appointed by the governing body of the county.

22 (2) The members of the review board shall serve terms of no more than four years and
23 may be reappointed by the governing body.

24 (3) The review board must include:

25 (a) One member who represents the interests of the farming community of the county;

26 (b) One member who represents the Eastern Oregon Border Economic Development
27 Board;

28 (c) One member who is a member of the governing body of the county; and

29 (d) One member who is a member of the planning body for the county.

30 (4) The review board shall review, and conduct at least one public hearing for, each pe-
31 tition filed under section 2 of this 2019 Act to rezone land and shall provide a written opinion
32 to the county.

33 (5) The opinion developed by the review committee is not a land use decision and is not
34 subject to appeal.

35 **SECTION 2b.** Sections 2 and 2a of this 2019 Act are repealed January 2, 2030.

36 **SECTION 2c.** The repeal of sections 2 and 2a of this 2019 Act by section 2b of this 2019
37 Act does not invalidate, or provide any basis for challenging, the rezoning of lands under
38 section 2 of this 2019 Act.

39 **SECTION 3.** Section 4 of this 2019 Act is added to and made a part of ORS 308A.050 to
40 308A.128.

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

42 (a) "Date of rezoning" means the applicable date of a zoning change under section 2 of
43 this 2019 Act.

44 (b) "Newly constructed dwelling" means a dwelling for which construction or develop-
45 ment began on or after the date of rezoning.

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

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

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

9 (c) May not have any newly constructed dwellings assessed as improvements under ORS
10 308.146 or 308A.110.

11 (3) The property described in subsection (2) of this section is disqualified from special
12 assessment and assessed under ORS 308.146 and may be subject to additional tax liability or
13 deferred taxes under ORS 308.050 to 308.128 and 308A.700 to 308A.733 in the property tax year
14 beginning on the earliest of the following:

15 (a) The July 1 next following the issuance of an occupancy permit under ORS 455.055 for
16 a newly constructed dwelling on the property;

17 (b) The July 1 next following five years from the date of rezoning; or

18 (c) July 1, 2030.

19 **SECTION 5.** Notwithstanding ORS 315.037, section 4 of this 2019 Act applies to property
20 tax years beginning on or after July 1, 2020, and before July 1, 2031.

21 **SECTION 6.** Section 4 of this 2019 Act is repealed January 2, 2032.

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

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

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

27 (b) Are not dwellings or replacement dwellings authorized under ORS 215.130 (6), 215.213,
28 215.283, 215.284, 215.317 or 215.700 to 215.780 or section 2, chapter 462, Oregon Laws 2013; and

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

30 (2) A taxpayer who sells Eastern Oregon Border Economic Development Region housing
31 to a buyer intending to occupy the dwelling unit as the buyer’s primary residence is allowed
32 a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident
33 individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a
34 corporation. The total amount of the credit is equal to the lesser of \$5,000 or three percent
35 of the sale price of the residential property.

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

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

43 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
44 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
45 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax

1 year may be carried forward and used in the second succeeding tax year but may not be
2 carried forward for any tax year thereafter.

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

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

8 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS
9 314.410 or other law, all prior tax relief provided to the taxpayer must be forfeited and the
10 Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a
11 result of the tax credit.

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

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

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

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

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

28 **SECTION 9.** (1) Except as provided in subsection (2) of this section, a credit under section
29 8 of this 2019 Act may be claimed for tax years beginning on or after January 1, 2020.

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

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

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