

Senate Bill 1085

Sponsored by Senator ANDERSON

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act reduces minimum lot sizes for farm and forest lands. (Flesch Readability Score: 72.6).

Quarters the minimum acreage for farm, forest and rangeland lots or parcels. Allows farm, forest or rangeland lots to be created from land without water rights if the land is subdivided to establish at least four dwellings that will share infrastructure and amenities.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to minimum lot sizes for resource lands; amending ORS 215.263, 215.304 and 215.780; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 215.780 is amended to read:

6 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
7 parcel sizes apply to all counties:

8 (a) For land zoned for exclusive farm use and not designated rangeland, at least [80] **20** acres;

9 (b) For land zoned for exclusive farm use and designated rangeland, at least [160] **40** acres; and

10 (c) For land designated forestland, at least [80] **20** acres.

11 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)
12 of this section in any of the following circumstances:

13 (a) When the county can demonstrate to the Land Conservation and Development Commission
14 that the county can adopt a lower minimum lot or parcel size while continuing to meet the re-
15 quirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

16 (b) To divide by partition an area of land zoned for forest use to create a parcel for a dwelling
17 that has existed since before June 1, 1995, subject to the following requirements:

18 (A) The parcel created may not be larger than five acres, except as necessary to recognize
19 physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres;
20 and

21 (B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subse-
22 quently authorized by law or goal and the parcel either:

23 (i) Meets the minimum lot or parcel size of the zone; or

24 (ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel
25 size of the zone.

26 (c) To divide by partition an area of land zoned for mixed farm and forest use to create a parcel
27 for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

28 (A) The parcel created may not be larger than five acres, except as necessary to recognize

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 physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres;

2 (B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subse-
 3 quently authorized by law or goal and the parcel either:

4 (i) Meets the minimum lot or parcel size of the zone; or

5 (ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel
 6 size of the zone;

7 (C) The minimum tract eligible under this paragraph is 40 acres;

8 (D) The tract must be predominantly in forest use and that portion in forest use qualified for
 9 special assessment under a program under ORS chapter 321; and

10 (E) The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and
 11 215.283 that are not allowed on forestland.

12 (d) To allow a division by partition of forestland to facilitate a forest practice as defined in ORS
 13 527.620 that results in a parcel that does not meet the minimum area requirements of subsection
 14 (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

15 (A) Are not eligible for siting of a new dwelling;

16 (B) May not serve as the justification for the siting of a future dwelling on other lots or parcels;

17 (C) May not, as a result of the land division, be used to justify redesignation or rezoning of re-
 18 source lands; and

19 (D) May not result in a parcel of less than 35 acres, unless the purpose of the land division is
 20 to:

21 (i) Facilitate an exchange of lands involving a governmental agency; or

22 (ii) Allow transactions in which at least one participant is a person with a cumulative ownership
 23 of at least 2,000 acres of forestland.

24 (e) To allow a division by partition of a lot or parcel zoned for forest use or mixed farm and
 25 forest use under a statewide planning goal protecting forestland if:

26 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

27 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.291;

28 (C) Except for one parcel, each parcel created under this paragraph is between two and five
 29 acres in size;

30 (D) At least one dwelling is located on each parcel created under this paragraph; and

31 (E) The landowner of a parcel created under this paragraph provides evidence that a restriction
 32 prohibiting the landowner and the landowner's successors in interest from further dividing the par-
 33 cel has been recorded with the county clerk of the county in which the parcel is located. A re-
 34 striction imposed under this paragraph is irrevocable unless a statement of release is signed by the
 35 county planning director of the county in which the parcel is located indicating that the compre-
 36 hensive plan or land use regulations applicable to the parcel have been changed so that the parcel
 37 is no longer subject to statewide planning goals protecting forestland or unless the land division is
 38 subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest
 39 use or mixed farm and forest use.

40 (f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as
 41 provided in ORS 215.783.

42 **(g) To allow land to be subdivided into lots not less than five acres in size if:**

43 **(A) The land is zoned for exclusive farm use, forest use or mixed farm and forest use;**

44 **(B) The property has no appurtenant right to the use of water as of January 1, 2025;**

45 **(C) The land will be subdivided into no fewer than four lots; and**

1 **(D) On each resulting lot will be developed a dwelling unit which shall share**
 2 **infrastructure and amenities with the other resulting lots.**

3 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
 4 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record
 5 must be readily available to the public.

6 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
 7 dwelling on the lot or parcel was approved under:

8 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
 9 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

10 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
 11 use zone under a statewide planning goal protecting forestland.

12 (5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to
 13 ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under
 14 ORS 197.628 to 197.651 that is smaller than those prescribed in subsection (1) of this section need
 15 not comply with subsection (2) of this section.

16 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) and (c) of this sec-
 17 tion shall provide evidence that a restriction on the remaining parcel, not containing the dwelling,
 18 has been recorded with the county clerk of the county where the property is located. An applicant
 19 for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that
 20 a restriction on the newly created parcel has been recorded with the county clerk of the county
 21 where the property is located. The restriction may not allow a dwelling unless authorized by law
 22 or goal on land zoned for forest use except as permitted under subsection (2) of this section.

23 (b) A restriction imposed under this subsection is irrevocable unless a statement of release is
 24 signed by the county planning director of the county where the property is located indicating that
 25 the comprehensive plan or land use regulations applicable to the property have been changed in
 26 such a manner that the parcel is no longer subject to statewide planning goals pertaining to agri-
 27 cultural land or forestland.

28 (c) The county planning director shall maintain a record of parcels that do not qualify for the
 29 siting of a new dwelling under restrictions imposed by this subsection. The record must be readily
 30 available to the public.

31 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-
 32 ment that must be recorded with the county clerk of the county in which the property is located,
 33 declaring that the landowner and the landowner's successors in interest will not in the future com-
 34 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

35 **SECTION 2.** ORS 215.263 is amended to read:

36 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
 37 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
 38 governing body or its designee of the county in which the land is situated. The governing body of
 39 a county by ordinance shall require prior review and approval for divisions of land within exclusive
 40 farm use zones established within the county.

41 (2)(a) The governing body of a county or its designee may approve a proposed division of land
 42 to create parcels for farm use as defined in ORS 215.203 if it finds that:

43 (A) The proposed division of land is appropriate for the continuation of the existing commercial
 44 agricultural enterprise within the area;

45 (B) The parcels created by the proposed division are not smaller than the minimum size estab-

1 lished under ORS 215.780; or

2 (C) A portion of a lot or parcel has been included within an urban growth boundary and rededesignated for urban uses under the applicable acknowledged comprehensive plan and the portion of the lot or parcel that remains outside the urban growth boundary and zoned for exclusive farm use is smaller than the minimum lot or parcel size established under ORS 215.780, subject to paragraph 6 (b) of this subsection.

7 (b) When a parcel for farm use is created in an exclusive farm use zone under paragraph (a) of this subsection[, *the partition must occur along the urban growth boundary and*]:

9 (A) If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.

11 (B) If the parcel does not contain a dwelling, the parcel:

12 (i) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

13 (ii) May not be considered in approving or denying an application for siting any other dwelling; and

15 (iii) May not be considered in approving a redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.

17 (C) **If the parcel is created under paragraph (a)(C) of this subsection, the partition must occur along the urban growth boundary.**

20 (3) The governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (1)(c) or (2) or 215.283 (1)(c) or (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary. Land that is divided under this subsection pursuant to ORS 215.213 (1)(c) or 215.283 (1)(c) may not later be rezoned by the county for retail, commercial, industrial or other nonresource use, except as provided under the statewide land use planning goals or under ORS 197.732.

23 (4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined in ORS 215.010, the governing body of a county or its designee[:]

26 [(a)] may approve a division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling not provided in conjunction with farm use if:

29 [(A)] (a) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

31 [(B)] (b) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

33 [(C)] (c) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size established under ORS 215.780;

35 [(D)] (d) The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under ORS 215.780; and

37 [(E)] (e) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

39 [(b) *May approve a division of land in an exclusive farm use zone to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use if:*]

1 [(A) *The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);]*
2 [(B) *The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully*
3 *created prior to July 1, 2001;]*
4 [(C) *The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or*
5 *smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;]*
6 [(D) *The parcels for the nonfarm dwellings are:]*
7 [(i) *Not capable of producing more than 50 cubic feet per acre per year of wood fiber; and]*
8 [(ii) *Composed of at least 90 percent Class VI through VIII soils;]*
9 [(E) *The parcels for the nonfarm dwellings do not have established water rights for irrigation;*
10 *and]*
11 [(F) *The parcels for the nonfarm dwellings are generally unsuitable for the production of farm*
12 *crops and livestock or merchantable tree species considering the terrain, adverse soil or land condi-*
13 *tions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered*
14 *unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in*
15 *conjunction with other land.]*
16 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its
17 designee[.]:
18 [(a)] may approve a division of land in an exclusive farm use zone to create up to two new
19 parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling
20 not provided in conjunction with farm use if:
21 [(A)] (a) The nonfarm dwellings have been approved under ORS 215.284 (7);
22 [(B)] (b) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
23 created prior to July 1, 2001;
24 [(C)] (c) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies
25 with the minimum size established under ORS 215.780;
26 [(D)] (d) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
27 complies with the minimum size established under ORS 215.780; and
28 [(E)] (e) The parcels for the nonfarm dwellings are generally unsuitable for the production of
29 farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land
30 conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be
31 considered unsuitable based solely on size or location if the parcel can reasonably be put to farm
32 or forest use in conjunction with other land.
33 [(b) *May approve a division of land in an exclusive farm use zone to divide a lot or parcel into two*
34 *parcels, each to contain one dwelling not provided in conjunction with farm use if:]*
35 [(A) *The nonfarm dwellings have been approved under ORS 215.284 (7);]*
36 [(B) *The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully*
37 *created prior to July 1, 2001;]*
38 [(C) *The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or*
39 *smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;]*
40 [(D) *The parcels for the nonfarm dwellings are:]*
41 [(i) *Not capable of producing at least 20 cubic feet per acre per year of wood fiber; and]*
42 [(ii) *Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90*
43 *percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for*
44 *grazing livestock. The Land Conservation and Development Commission, in cooperation with the State*
45 *Department of Agriculture and other interested persons, may establish by rule objective criteria for*

1 *identifying units of land that are not capable of producing adequate herbaceous forage for grazing*
 2 *livestock. In developing the criteria, the commission shall use the latest information from the United*
 3 *States Natural Resources Conservation Service and consider costs required to utilize grazing lands*
 4 *that differ in acreage and productivity level;]*

5 [(E) *The parcels for the nonfarm dwellings do not have established water rights for irrigation;*
 6 *and]*

7 [(F) *The parcels for the nonfarm dwellings are generally unsuitable for the production of farm*
 8 *crops and livestock or merchantable tree species considering the terrain, adverse soil or land condi-*
 9 *tions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered*
 10 *unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in*
 11 *conjunction with other land.]*

12 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
 13 the boundaries designated for a farm use zone at the time the zone is established.

14 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
 15 of land resulting from foreclosure of recorded contracts for the sale of real property.

16 (8) The governing body of a county may not approve any proposed division of a lot or parcel
 17 described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 (1), or a proposed division
 18 that separates a facility for the processing of farm products, as defined in ORS 215.255, from the
 19 farm operation.

20 (9) The governing body of a county may approve a proposed division of land in an exclusive farm
 21 use zone to create a parcel with an existing dwelling to be used:

22 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
 23 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

24 (b) For historic property that meets the requirements of ORS 215.213 (1)(n) and 215.283 (1)(L).

25 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
 26 prove a proposed division of land provided:

27 (A) The land division is for the purpose of allowing a provider of public parks or open space,
 28 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
 29 and

30 (B) A parcel created by the land division that contains a dwelling is large enough to support
 31 continued residential use of the parcel.

32 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

33 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

34 (B) May not be considered in approving or denying an application for siting any other dwelling;

35 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a
 36 redesignation or rezoning to allow a public park, open space or other natural resource use; and

37 (D) May not be smaller than 25 acres unless the purpose of the land division is:

38 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
 39 wildlife habitat protection plan; or

40 (ii) To allow a transaction in which at least one party is a public park or open space provider,
 41 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000
 42 acres of open space or park property.

43 (11) The governing body of a county or its designee may approve a division of land smaller than
 44 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone
 45 provided:

1 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction
 2 with the church;

3 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

4 (c) The newly created lot or parcel is not larger than five acres; and

5 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size
 6 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or
 7 parcel.

8 (12) Notwithstanding the minimum lot or parcel size described in ORS 215.780 (1) or (2), the
 9 governing body of a county or its designee may approve a proposed division of land in an exclusive
 10 farm use zone for the nonfarm uses set out in ORS 215.213 (1)(v) or 215.283 (1)(s) if it finds that the
 11 parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing
 12 body may establish other criteria as it considers necessary.

13 (13) The governing body of a county may not approve a division of land for nonfarm use under
 14 subsection (3), (4), (5), (9), (10), (11) or (12) of this section unless any additional tax imposed for the
 15 change in use has been paid.

16 (14) Parcels used or to be used for training or stabling facilities may not be considered appro-
 17 priate to maintain the existing commercial agricultural enterprise in an area where other types of
 18 agriculture occur.

19 **SECTION 3.** ORS 215.304 is amended to read:

20 215.304. [(1)] The Land Conservation and Development Commission [shall] **may** not adopt or
 21 implement any rule to identify or designate small-scale farmland or secondary land.

22 [(2) Amendments required to conform rules to the provisions of subsection (1) of this section and
 23 ORS 215.700 to 215.780 shall be adopted by March 1, 1994.]

24 [(3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213,
 25 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.700
 26 to 215.780 on March 1, 1994:]

27 [(a) Shall not be implemented or enforced; and]

28 [(b) Has no legal effect.]

29 [(4) Notwithstanding subsection (3) of this section, the uses authorized by ORS 215.283 (1)(x) or
 30 (2)(n) may be established on land in exclusive farm use zones, including high-value farmland.]

31 **SECTION 4. This 2025 Act being necessary for the immediate preservation of the public**
 32 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
 33 **on its passage.**