

Oregon Revised Statutes, 2003 Edition

Chapter 308A — Land Special Assessments

WILDLIFE HABITAT SPECIAL ASSESSMENT (400-430)

ADDITIONAL TAXES, PROCEDURES APPLICABLE TO CERTAIN LAND SPECIAL ASSESSMENT PROGRAMS (700-743)

WILDLIFE HABITAT SPECIAL ASSESSMENT

308A.400

Findings

- (1) The Legislative Assembly finds that the State of Oregon has a rich diversity of plants, animals and other natural resources on private lands. Conservation and careful management of these resources is evident in Oregon's working landscape and is essential to the economic and ecological health of Oregon.
- (2) The Legislative Assembly further finds that conservation of natural resources on private lands is desirable, and nonregulatory programs that encourage and enable landowners to engage voluntarily in conservation should be available to supplement regulatory and other approaches.
- (3) The Legislative Assembly further finds that to maximize voluntary landowner participation in conservation programs, conservation should be recognized as a legitimate land use and landowners should have a full range of incentive programs from which to choose.
- (4) The Legislative Assembly further finds that state government should have a mechanism to coordinate, facilitate and memorialize a landowner's compliance with regulatory requirements while simultaneously providing a means to combine or coordinate multiple incentive programs among agencies and levels of government.
- (5) The Legislative Assembly further finds that efforts should be made to more effectively and efficiently target conservation programs administered by federal, state and local governments.
- (6) The Legislative Assembly further finds that there should be a comprehensive review to identify and assess the state's conservation needs and to coordinate the development, dissemination and implementation of a comprehensive statewide conservation strategy to define priorities and address ecological goals while enhancing economic and social conditions. [2003 c.539 §1]

Note: 308A.400 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308A.403

Policy

- (1) The Legislative Assembly declares that the protection and preservation of the wildlife resources of this state ought to be encouraged by recognizing wildlife habitat conservation and management as a legitimate land use.
- (2) The Legislative Assembly further declares that ORS 308A.403 to 308A.430 are intended to allow for the conservation and management of wildlife habitat.

(3) The Legislative Assembly recognizes that the integration of wildlife habitat conservation and management plans with generally accepted agricultural and forestry practices is an important element in exercising good land stewardship. [2003 c.539 §3]

Note: Section 11, chapter 539, Oregon Laws 2003, provides: Sec. 11. Sections 3 to 10 of this 2003 Act [308A.403 to 308A.430] apply to tax years beginning on or after July 1, 2004. [2003 c.539 §11]

308A.406

Definitions for ORS 308A.403 to 308A.430

As used in ORS 308A.403 to 308A.430:

(1) “Cooperating agency” means the State Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Natural Resources Conservation Service of the United States Department of Agriculture, the Oregon State University Extension Service or other persons with wildlife habitat conservation and management training considered appropriate for the preparation of a wildlife habitat conservation and management plan, as established by rules of the State Department of Fish and Wildlife.

(2) “Department” means the State Department of Fish and Wildlife.

(3) “Lot” has the meaning given that term in ORS 92.010.

(4) “Parcel” has the meaning given that term in ORS 215.010.

(5) “Wildlife habitat conservation and management plan” or “plan” means a plan developed by a cooperating agency and landowner that specifies the conservation and management practices, including farm and forest uses consistent with the overall intent of the plan, that will be conducted to preserve and improve wildlife habitat on an affected lot or parcel. [2003 c.539 §4]

Note: See note under 308A.403.

308A.409

Wildlife habitat conservation and management plans; rules

(1)(a) The State Fish and Wildlife Commission shall adopt rules specifying the form and content of a wildlife habitat conservation and management plan that is sufficient for land that is subject to the plan to be specially assessed under ORS 308A.403 to 308A.430.

(b) The rules adopted pursuant to this section shall:

(A) Specify the conservation and management practices that are appropriate to preserve and enhance wildlife common to the diverse regions of this state; and

(B) Specify that wildlife habitat conservation and management plans may include those efforts that improve water quality, protect and restore fish and wildlife habitats, recover threatened or endangered species, enhance stream flows and maintain or restore long-term ecological health, diversity and productivity on a broad geographic scale.

(2) Under rules adopted pursuant to this section, the commission shall allow:

(a) Accepted agricultural and forestry practices as an integral part of the wildlife habitat conservation and management practices specified in an approved plan; and

(b) The lease or sale of in-stream water rights as an integral part of the wildlife habitat conservation and management practices specified in an approved plan.

(3) The rules shall be reviewed periodically by the commission and revised when considered necessary or appropriate by the commission. [2003 c.539 §5]

Note: See note under 308A.403.

308A.412

Plan submission and review; limitation on approval; rules

- (1) An owner of land described in ORS 308A.415 who seeks special assessment under ORS 308A.403 to 308A.430 shall first submit a proposed wildlife habitat conservation and management plan to the State Department of Fish and Wildlife for review.
- (2) The department shall review each submitted plan for compliance with the standards set forth in the rules adopted under ORS 308A.409 and shall determine if the plan is being implemented.
- (3) Upon completing a review of a proposed plan and determining that the plan is in compliance with the standards set forth in the rules adopted under ORS 308A.409 and is being implemented, the department shall issue to the landowner a written declaration that the land is subject to a wildlife habitat conservation and management plan approved by the department and that the landowner has begun implementing the plan.
- (4) The State Fish and Wildlife Commission may establish by rule a limit on the number of plans that may be approved in each calendar year. An application that is not approved because the maximum number of plans for a year has already been approved shall be held for consideration for approval for the next year. [2003 c.539 §6]

Note: See note under 308A.403.

308A.415

Designation by State Fish and Wildlife Commission of land eligible for wildlife habitat special assessment

- (1) At the request of the governing body of a county, the State Fish and Wildlife Commission may designate the following land in unincorporated areas within the county as eligible for wildlife habitat special assessment:
 - (a) Any land that is zoned for exclusive farm use, mixed farm and forest use or forest use under a land use planning goal protecting agricultural land or forestland; or
 - (b) Land that is clearly identifiable as containing significant wildlife habitat.
- (2) At the request of the governing body of a city, the commission may designate the following land within the city as eligible for wildlife habitat special assessment:
 - (a) Any land that is zoned for exclusive farm use, mixed farm and forest use or forest use under a land use planning goal protecting agricultural land or forestland; or
 - (b) Land that is clearly identifiable as containing significant wildlife habitat.
- (3) With the prior consent of the governing body of a city, the county in which all or a part of the city is located may apply to the commission on behalf of the city for designation of any area that is within both the city and the county as eligible for wildlife habitat special assessment.
- (4) The commission may designate land described in subsection (1) or (2) of this section as eligible for wildlife habitat special assessment only if the commission finds:
 - (a) That designation will promote the findings in ORS 308A.400 and the policy in ORS 308A.403; and
 - (b) That the land described in subsection (1) or (2) of this section is of the nature and quality to allow for implementation of wildlife habitat conservation and management plans approved under rules adopted pursuant to ORS 308A.409.
- (5) Land may not qualify for wildlife habitat special assessment under ORS 308A.424 unless the commission has determined that the land is eligible for wildlife habitat special assessment under this section. [2003 c.539 §7]

Note: See note under 308A.403.

308A.418

Removal of designation upon request of city or county; requirements

- (1) The governing body of the city or county that requested designation under ORS 308A.415 may request that the State Fish and Wildlife Commission remove that designation.
- (2) The commission shall remove the designation if:
 - (a) The city or county demonstrates that the designation creates an economic burden for the city or county; and
 - (b) The commission finds that the economic burden is significant.
- (3) In making its determination under subsection (2) of this section, the commission shall give significant weight to the demonstration of economic burden made by the city or county. [2003 c.539 §7a]

Note: See note under 308A.403.

308A.421

Effect of designation or removal for property tax purposes

A determination by the State Fish and Wildlife Commission to designate land as eligible for wildlife habitat special assessment under ORS 308A.415 or to remove that designation under ORS 308A.418 shall for property tax purposes be effective as of the tax year beginning the July 1 immediately following the determination. [2003 c.539 §7b]

Note: See note under 308A.403.

308A.424

Application for special assessment; approval

- (1) When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment.
- (2) Application shall be made to the county assessor on forms prepared by the Department of Revenue and supplied by the county assessor.
- (3) Applications for wildlife habitat special assessment shall be made to the county assessor on or before April 1 of the first assessment year for which the assessment is desired. The application shall include:
 - (a) A copy of the wildlife habitat conservation and management plan.
 - (b) A certified copy of the declaration described in ORS 308A.412 (3).
 - (c) A description of the land that is the subject of the application that is sufficient for the county assessor to determine whether the land for which wildlife habitat special assessment is sought is within an area eligible for wildlife habitat special assessment.
 - (d) A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.703 upon disqualification from wildlife habitat special assessment.
 - (e) An affirmation that the statements contained in the application are true.
- (4) An application to the county assessor shall be deemed approved unless, before August 15 of the year in which the application was filed, the assessor notifies the applicant in writing that the application has been wholly or partially denied.
- (5) Whether land that is subject to a wildlife habitat conservation and management plan qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. If land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232 at its real market value as defined by law without regard to this section and shall be assessed at its assessed value under

ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year. [2003 c.539 §8]

Note: See note under 308A.403.

308A.427

Valuation

(1) The county assessor shall value land for wildlife habitat special assessment in accordance with this section.

(a) For property that was specially assessed during the previous assessment year under a program listed in ORS 308A.706 (1)(d), the property shall continue to have a specially assessed value, a maximum assessed value and an assessed value as determined under whichever of the following was an applicable method of valuation for the previous assessment year:

(A) Under ORS 308A.050 to 308A.128; or

(B) Under ORS 321.354 or 321.833.

(b) For property that was not specially assessed during the previous assessment year, the property shall have a specially assessed value, a maximum assessed value and an assessed value:

(A) Determined under ORS 321.354 or 321.833 if, at the time of application, the land has growing upon it trees of a marketable species and in numbers sufficient to meet requirements for designated forestland under ORS 321.358 or 321.839; or

(B) If the criteria set forth in subparagraph (A) of this paragraph are not satisfied, determined under ORS 308A.050 to 308A.128.

(2) For property subject to wildlife habitat special assessment, the county assessor shall enter on the assessment and tax roll the notation "potential additional tax liability" until the land is disqualified under ORS 308A.430. [2003 c.539 §9]

Note: See note under 308A.403.

308A.430

Disqualification from special assessment

(1) Land subject to a wildlife habitat conservation and management plan shall be inspected by the State Department of Fish and Wildlife periodically to ensure that the land is managed in accordance with the plan. If the plan is not being implemented as approved, the department shall notify the landowner and require compliance measures to be taken within six months. If the plan is still not being implemented as required by the department at the end of the six-month period, the department shall notify the county assessor that the plan is not being implemented as approved.

(2) The county assessor shall disqualify the land from wildlife habitat special assessment upon:

(a) Notice from the department as described in subsection (1) of this section;

(b) Notice of request by the landowner for withdrawal of the land from wildlife habitat special assessment;

(c) Sale or transfer to an ownership making the land exempt from ad valorem property taxation;

(d) The land qualifying for another special assessment listed in ORS 308A.703 (1); or

(e) The act of recording a subdivision plat under ORS chapter 92.

(3) If, pursuant to subsection (2)(e) of this section, the county assessor disqualifies land for wildlife habitat special assessment upon the act of recording a subdivision plat, the land may requalify for wildlife habitat special assessment upon:

(a) Payment of all additional tax and interest that remains due and owing as a result of the disqualification;

(b) Compliance with ORS 308A.403 to 308A.430; and

(c) Submission of an application for wildlife habitat special assessment under ORS 308A.424 and approval of the application by the county assessor.

(4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [2003 c.539 §10]

Note: See note under 308A.403.

ADDITIONAL TAXES, PROCEDURES APPLICABLE TO CERTAIN LAND SPECIAL ASSESSMENT PROGRAMS

Additional Taxes

308A.700

Definitions for ORS 308A.700 to 308A.733.

As used in ORS 308A.700 to 308A.733:

(1) “Disqualification” includes the removal of forestland designation under ORS 321.359, 321.712, 321.716 or 321.842.

(2) “Urban growth boundary” means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district under ORS 268.390 (3). [1999 c.314 §33; 2003 c.454 §§19,21; 2003 c.621 §84]

Note: Section 22, chapter 454, Oregon Laws 2003, provides: Sec. 22. The amendments to ORS 308A.700 by section 21 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §22]

308A.703

Additional taxes upon disqualification

(1) This section applies to land upon the land’s disqualification from special assessment under any of the following sections:

- (a) Exclusive farm use zone farmland under ORS 308A.113;
- (b) Nonexclusive farm use zone farmland under ORS 308A.116;
- (c) Western Oregon designated forestland under ORS 321.359;
- (d) Eastern Oregon designated forestland under ORS 321.842;
- (e) Small tract forestland under ORS 321.712 or 321.716; or
- (f) Wildlife habitat special assessment under ORS 308A.430.

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

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

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

(c) Five years, in the case of:

- (A) Nonexclusive farm use zone farmland;
- (B) Western Oregon designated forestland;
- (C) Eastern Oregon designated forestland;
- (D) Small tract forestland;
- (E) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection; or
- (F) Wildlife habitat special assessment land that is not described in paragraph (b) of this subsection.

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

(5) If the disqualification of the land is the result of the sale or transfer of the land to an ownership making the land exempt from ad valorem property taxation, the lien for additional taxes shall attach as of the day preceding the sale or transfer.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370. [1999 c.314 §34; 2001 c.114 §21; 2003 c.454 §§23,25; 2003 c.539 §16; 2003 c.621 §85]

Note: Section 26, chapter 454, Oregon Laws 2003, provides: Sec. 26. The amendments to ORS 308A.703 by section 25 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §26]

Note: See note under 308A.318.

308A.706

Circumstances when additional taxes are deferred; potential additional tax liability.

(1) Notwithstanding that land may have been disqualified from special assessment, the additional taxes described under ORS 308A.703 shall not be imposed and shall remain a potential tax liability if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(a) Disqualified exclusive farm use zone farmland or nonexclusive farm use zone farmland that:

- (A) Is not being used as farmland; and
 - (B) Is not being used for industrial, commercial, residential or other use that is incompatible with a purpose to return the land to farm use.
- (b) Acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body.
- (c) Acquired and used for natural heritage purposes and all of the following additional requirements are met:
- (A) The land is registered under ORS 273.581 as a natural heritage conservation area;
 - (B) The land is acquired by a private nonprofit corporation;
 - (C) The land is retained by the corporation, or transferred to the state by the corporation, for the purpose of educational, scientific and passive recreational use consistent with conservation of the ecological values and natural heritage elements of the area;
 - (D) If the land is retained by the corporation, it remains open to the public without charge for the uses described in subparagraph (C) of this paragraph; and
 - (E) The land is managed pursuant to a voluntary management agreement under ORS 273.581 (5).

(d) Qualified for special assessment under:

- (A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;
- (B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone farmland;
- (C) ORS 321.358, relating to classification as designated forestland in western Oregon;
- (D) ORS 321.839, relating to classification as designated forestland in eastern Oregon;
- (E) ORS 321.709, relating to qualification as small tract forestland; or
- (F) ORS 308A.424, relating to wildlife habitat special assessment.

(e) Disqualified nonexclusive farm use zone farmland, to the extent the additional taxes are deferred or abated as provided in ORS 308A.119.

(2) In any case where the additional tax is deferred under the provisions of this section but may subsequently be imposed under ORS 308A.712, the county assessor shall continue to enter the notation “potential additional tax liability” on the assessment and tax roll. [1999 c.314 §35; 2003 c.454 §§27,29; 2003 c.539 §17; 2003 c.621 §86]

Note: Section 30, chapter 454, Oregon Laws 2003, provides: Sec. 30. The amendments to ORS 308A.706 by section 29 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §30]

Note: See note under 308A.318.

308A.707

Additional taxes when land disqualified from small tract forestland assessment

(1) Notwithstanding ORS 308A.706 and in addition to and not in lieu of any additional tax imposed under ORS 308A.703, additional taxes determined as prescribed under subsection (2) of this section shall be imposed on land that is disqualified from small tract forestland assessment under ORS 321.712 or 321.716.

(2)(a) The additional taxes shall be equal to the difference between the taxes assessed against the land under ORS 321.700 to 321.754 and the taxes that would have been assessed against the land:

(A) Under ORS 321.257 to 321.390, if the land is located in western Oregon; or

(B) Under ORS 321.805 to 321.855, if the land is located in eastern Oregon.

(b) The number of years for which additional taxes shall be calculated shall equal the lesser of 10 years or the number of consecutive years the land has been assessed as small tract forestland.

(3) The additional taxes described in this section shall be imposed and collected at the same time and in the same manner as additional taxes described in ORS 308A.703 are imposed and collected.

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

(5) As used in this section, “western Oregon” and “eastern Oregon” have the meanings given those terms in ORS 321.700. [2003 c.454 §31]

Note: Section 32, chapter 454, Oregon Laws 2003, provides: Sec. 32. Section 31 of this 2003 Act [308A.707] applies to tax years beginning on or after July 1, 2004. [2003 c.454 §32]

308A.709

Circumstances when additional taxes are not imposed

Notwithstanding that land may have been disqualified from special assessment, no additional taxes may be imposed under ORS 308A.703 if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(1) Acquired by a governmental agency as a result of the lawful exercise of the power of eminent domain or the threat or imminence thereof.

(2) Acquired by purchase, agreement or donation under ORS 390.121 (relating to State Parks and Recreation Commission acquisitions).

(3) Acquired by a city, county, metropolitan service district created under ORS chapter 268 or park and recreation district organized under ORS chapter 266 for public recreational purposes or for the preservation of scenic or historic places.

(4) Acquired for wildlife management purposes under ORS 496.146.

(5) Public property that was leased or rented to a taxable owner as described in ORS 307.110 at the time of disqualification, and the reason for the disqualification was the termination of the lease under which the land was assessed.

(6) Land that ceases to be located within the boundaries of an exclusive farm use zone as the result of a change in the boundaries of the zone or removal of the zone following an action by the governing body of the county or city that:

(a) Was not requested or initiated by the owner of the land; or

(b) Was requested by:

(A) The State Parks and Recreation Department for public park purposes under ORS 390.121; or

(B) The State Fish and Wildlife Commission for wildlife management purposes under ORS 496.146.

(7) Forestland acquired by a federal, state or local governmental agency. In the case of an acquisition described in this subsection, a lien for additional taxes and interest may not attach on the day preceding the day of transfer of the forestland to the governmental agency. [1999 c.314 §36; 1999 c.800 §1a; 2003 c.454 §34; 2003 c.621 §87]

308A.712

Determining amount of deferred additional taxes and period for which additional taxes are due

(1) If the disqualification of land from special assessment results in the deferral of additional taxes under ORS 308A.706:

(a) The amount of deferred additional taxes shall be determined as provided for in this section in lieu of ORS 308A.703; and

(b) The deferred additional taxes shall be added to the assessment and tax roll for the year in which the event described in subsections (2) to (6) of this section is first taken into account for property tax purposes, to be collected and distributed in the same manner as other ad valorem property taxes.

(2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of farmland) and subsequently the land is changed to an industrial, commercial, residential or other use incompatible with a return of the land to farm use, then:

(a) The amount of additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the farm use special assessment was in effect for the land, not to exceed:

(A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of farm use zoning applicable to the property; or

(B) In the case of all other farmland disqualified from farm use special assessment, five tax years.

(3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government exchange of land), additional taxes shall be collected when the land acquired as a result of the exchange is disqualified from special assessment. The additional taxes shall equal the total amount of additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to the governmental agency or body received the special assessment before the exchange plus the number of years, if any, the land acquired from the governmental agency or body received a special assessment after the exchange.

(b) The total number of years taken into account shall not exceed the maximum number of years for which additional taxes may be collected under the provision of law applicable to either the exchanged land (immediately before the exchange) or the acquired land, whichever is greater.

(4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to natural heritage), the additional taxes that would have been imposed under ORS 308A.703 at the time of disqualification shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

(5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the additional taxes that would have been collected at the time of disqualification shall be collected at the time the land is disqualified from any other special assessment law listed in ORS 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the land, not to exceed:

(A) Five tax years; or

(B) If the property had, within the past 10 tax years, been disqualified from a special assessment program described in ORS 308A.703 (3)(a) or (b) and had been continuously subject to special assessment, then 10 tax years. However, the number of continuous preceding years of special assessment under the special assessment programs listed in ORS 308A.703 (3)(c) that may be taken into consideration for purposes of computing the additional tax may not exceed five years.

(6) In determining the additional tax under subsection (5) of this section, the number of continuous preceding years of special assessment counted shall not include those years in which the land was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior to a disqualification of the land for special assessment as exclusive farm use zone farmland under the conditions described in ORS 308A.709 (6). [1999 c.314 §37; 2003 c.454 §36; 2003 c.621 §88]

308A.715

Imposition of deferred additional taxes upon request of owner

(1) Notwithstanding that additional taxes otherwise due under ORS 308A.703 are deferred under ORS 308A.706, the additional taxes may be imposed at any time after disqualification of the property from special assessment if the property owner so requests.

(2) A request for imposition of tax under this section shall be made in writing to the county assessor.

(3) If the request for imposition of tax under this section is made prior to August 15 of the assessment year, the additional tax shall be added to the current general property tax roll to be collected and distributed in the same manner as other real property tax. If the request for imposition of tax is made on or after August 15 of the assessment year, the additional tax shall be added to the next general property tax roll to be collected in the same manner as other ad valorem property taxes. [1999 c.314 §38]

Disqualification Notification Procedures

308A.718

Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation

(1) The county assessor shall send notice as provided in this section if land is disqualified under any of the following special assessment programs:

(a) Farm use special assessment under ORS 308A.050 to 308A.128.

(b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.

(c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.

(d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.

(e) Small tract forestland special assessment under ORS 321.700 to 321.754.

(f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the highest and best use of land changes from forestland to a different highest and best use.

(3) Within 30 days after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer in writing of the disqualification and shall state the reason for the disqualification.

(4) Following receipt of the notification, the taxpayer may appeal the assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

(A) ORS 308A.706 (1)(d) (relating to change in special assessment);

(B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);

(C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and

(D) The imposition of any penalties that would result from the disqualification if no requalification or reclassification is made under one of the other special assessment laws listed in this paragraph.

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

(c)(A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the assessor within 30 days of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

(a) The result of a request for disqualification by the property owner; or

(b) Because the property is being acquired by a government or tax-exempt entity. [1999 c.314 §39; 2003 c.454 §38; 2003 c.539 §18; 2003 c.621 §89]

Note: Section 39, chapter 454, Oregon Laws 2003, provides: Sec. 39. The amendments to ORS 308A.718 by section 38 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §39]

Note: The amendments to 308A.718 by section 89, chapter 621, Oregon Laws 2003, apply to property tax years beginning on or after July 1, 2004. See section 96b, chapter 621, Oregon Laws 2003.

Note: See note under 308A.318.

308A.721 [1999 c.314 §40; repealed by 2003 c.454 §81 and 2003 c.621 §49]

Change of Special Assessment

308A.724

Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates; limitation on special assessments for disqualified wildlife habitat land

(1)(a) In order for additional taxes imposed under ORS 308A.703 to be deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the owner must file an application or claim for classification under another special assessment law.

(b) If the disqualification is effective prior to July 1 in any year, the owner shall file the required claim or application on or before August 1 of that year.

(c) If the disqualification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current assessment and tax rolls, and the owner shall file the required claim or application in the next calendar year in accordance with the laws governing the particular special assessment program.

(2) If an owner of land disqualified under one of the special assessment laws listed in ORS 308A.706 (1)(d) seeks to qualify for farm use special assessment of nonexclusive farm use zone farmland under ORS 308A.068, the owner shall have five years, beginning with the first year in which application is made under this section, to qualify for the two-year farm use requirement of ORS 308A.068 and the income requirement under ORS 308A.071.

(3) Notwithstanding subsection (1) of this section, an owner may make application under this section at any time within 30 days of the date notice of disqualification is sent by the assessor under ORS 308A.718.

(4) Notwithstanding subsections (1) to (3) of this section, an owner of land disqualified from wildlife habitat special assessment under ORS 308A.430 that was previously subject to ORS 215.236 (5) may not apply for another special assessment under this section without first satisfying the requirements of ORS 215.236 (5). [1999 c.314 §41; 2003 c.454 §40; 2003 c.539 §20; 2003 c.621 §90]

Note: See note under 308A.318.

308A.727

Change to open space use; additional taxes upon withdrawal; notification upon application

(1) Land specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) shall be changed to open space use special assessment under ORS 308A.300 to 308A.330 if:

(a) Application for open space use special assessment is or has been made under ORS 308A.306;

(b) The land qualifies for open space use special assessment;

(c) The application for open space use special assessment is or has been approved under ORS 308A.309 and 308A.312;

(d) The open space use is for a golf course open to the general public with or without payment of fee or charge; and

(e) All or a portion of the land is within or is contiguous to an urban growth boundary.

(2) Land described in subsection (1) of this section shall not, upon the change from farm or forest use to open space use, be subject to any of the additional taxes ordinarily applicable when land specially assessed under one of the special assessment laws listed under ORS 308A.706 (1)(d) is disqualified, declassified or otherwise removed from such special assessment.

(3) When land that has been changed from special assessment as farm or forest land to open space use special assessment under subsections (1) and (2) of this section is later withdrawn or otherwise removed from open space use special assessment, all the provisions of ORS 308A.300 to 308A.330 shall apply except that there shall be added to the amount of additional taxes imposed under ORS 308A.318 or 308A.321 and computed under ORS 308A.312 (3), the amount of the additional taxes that, except for subsections (1) and (2) of this section, would have been added at the time of the change. However, in making the computation of the amount to be added under this subsection, the number of years specified in ORS 308A.703 shall be reduced by the number of continuous years of open space use special assessment in effect for the land pursuant to the change. At the time of the change to open space use and each year thereafter, the assessor shall determine and note upon the assessment and tax rolls the added amount of potential additional taxes, if any, that may become due under this subsection.

(4) For purposes of ORS 308A.324 and in construing any other provision of ORS 308A.300 to 308A.330, the amount of additional taxes added under subsection (3) of this section shall be treated as additional taxes imposed under ORS 308A.318 or 308A.321.

(5) Upon receipt of any application for open space use special assessment under ORS 308A.300 to 308A.330, the public official or agency shall notify the owner of the provisions of this section. [Formerly 321.795]

308A.730

Application for special assessment following acquisition of land through government exchange; amount of additional taxes following disqualification

(1) If land specially valued under ORS 308A.062, 308A.068, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 is acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body and the land acquired from the governmental agency or body is not farm use land located within an exclusive farm use zone or is not land, the highest and best use of which is the growing and harvesting of trees of a marketable species, the owner shall make application for special valuation as farm or forest land in the manner provided under ORS 308A.077, 321.358, 321.706 or 321.839, whichever is applicable, as follows:

(a) If the exchange takes place prior to July 1, the owner shall file the application on or before August 1.

(b) If the exchange takes place on or after July 1, the owner shall file the application on or before April 1 of the following year.

(2) Failure to file an application as required under this section, or failure to otherwise meet the qualification for special valuation under the special assessment law for which application is made shall disqualify the land under ORS 308A.703. However, the amount of additional taxes imposed upon the disqualification under this subsection shall be equal to those that would have been imposed against the land transferred to the governmental agency or body on account of the exchange were it not for ORS 308A.706 (1)(b).

(3) If an application filed under this section is for classification for farm use special assessment under ORS 308A.068, the owner shall have five years beginning with the first year of classification to meet the income requirements under ORS 308.372 and need not meet the two-year farm use requirements of ORS 308A.068.

(4) This section does not apply to an exchange of forestland to which ORS 308A.706 (1)(b) (relating to governmental exchange) applies. [Formerly 308.373; 2003 c.454 §§42,44; 2003 c.621 §91]

Note: Section 45, chapter 454, Oregon Laws 2003, provides: Sec. 45. The amendments to ORS 308A.730 by section 44 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §45]

308A.733

Withdrawal of change of special assessment application

(1) Where any property has been granted special assessment for the purposes of property taxation under any of the special assessment laws listed in subsection (2) of this section, and the owner or other qualified person applies for a change in the classification under another special assessment law, the applicant shall have 30 days thereafter within which to withdraw the application, by giving written notice to the public official or agency to whom the applicant applied for the change in classification. If no notice of withdrawal is given by the applicant, the application shall be acted upon and the change in classification made, as otherwise provided by law.

(2) This section applies to the following special assessment laws:

(a) ORS 308A.050 to 308A.128 (relating to special assessment at value for farm use).

(b) ORS 321.257 to 321.390 (relating to special assessment as designated forestland in western Oregon).

(c) ORS 321.805 to 321.855 (relating to special assessment as designated forestland in eastern Oregon).

(d) ORS 321.700 to 321.754 (relating to special assessment as small tract forestland).

(e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

(f) ORS 308A.350 to 308A.383 (relating to designation as riparian land). [Formerly 308.025; 2003 c.454 §§46,48; 2003 c.621 §92]

Note: Section 49, chapter 454, Oregon Laws 2003, provides: Sec. 49. The amendments to ORS 308A.733 by section 48 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §49]

Conservation Management; Effect on Disqualification

308A.740

Legislative findings and declarations

- (1) The Legislative Assembly finds that it is in the interests of the people of this state that certain private lands be managed in a sustainable manner for the purpose of maintaining the long-term ecological, economic and social values that these lands provide.
- (2) The Legislative Assembly declares that it is the policy of this state to encourage landowners to manage private lands in a sustainable manner through tax policy, land use planning, education and technical and financial incentives.
- (3) The Legislative Assembly further declares that it is the policy of this state not to impose additional taxes on property, commodities or income if a landowner voluntarily foregoes, limits or postpones economic uses of private land for conservation purposes.
- (4) As used in this section, “conservation” means the management of land, water and natural resources for the purpose of meeting human and ecological needs in a sustainable manner. [2001 c.708 §2]

308A.743

Disqualification limited when land subject to conservation and management plan, conservation easement or deed restriction; procedural requirements

- (1) Land that is specially assessed under ORS 308A.050 to 308A.128, 308A.300 to 308A.330, 308A.403 to 308A.430, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855, or land that is exempt from property tax under ORS 308A.350 to 308A.383, may not be disqualified from the special assessment or exemption, and may not be subject to additional taxes under ORS 308A.700 to 308A.733 or other law, if the property owner has:
 - (a) Entered into a wildlife habitat conservation and management plan, as described in ORS 308A.403 to 308A.430, approved by the State Department of Fish and Wildlife; or
 - (b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the land:
 - (A) Is managed in compliance with the conservation easement or deed restriction; and
 - (B) Continues to meet the requirements for special assessment or exemption. The existence of the conservation easement or deed restriction may not cause the disqualification of the land from special assessment or exemption or preclude the disqualification of the land from special assessment or exemption for some other reason.
- (2) A property owner who executes a conservation easement may convey the easement to a land trust or other qualified entity without a loss of benefits under this section.
- (3) In order for land to be subject to this section:
 - (a) The conservation easement, deed restriction or wildlife habitat conservation and management plan must be recorded in the records of the clerk of the county in which the land is located; and
 - (b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and management plan, along with the property tax account number for the land, must be sent to the county assessor. [2001 c.708 §3; 2003 c.454 §§50,52; 2003 c.539 §35; 2003 c.621 §93]

Note: Section 53, chapter 454, Oregon Laws 2003, provides: Sec. 53. The amendments to ORS 308A.743 by section 52 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.454 §53]

Note: See note under 308A.053.