

Enrolled
House Bill 2083

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Water Resources Department and Office of Regulatory Streamlining)

CHAPTER

AN ACT

Relating to streamlining of Water Resources Department regulations; amending ORS 537.130, 537.330 and 537.793; and repealing ORS 537.015, 537.017, 537.020, 537.022, 537.025, 537.027, 537.030, 537.032 and 537.788.

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

SECTION 1. ORS 537.330 is amended to read:

537.330. (1) In any transaction for the conveyance of real estate that includes a water right, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

(2) Upon closing and delivery of the instrument of conveyance in a real estate transaction involving the transfer of a water right, the seller shall also deliver to the purchaser evidence of any permit, transfer approval order or certificate of water rights if the permit, transfer approval order or certificate is available. *[In addition, the seller shall notify the Water Resources Department on a form prescribed by the department of:]*

[(a) The real estate transaction; and]

[(b) The water right involved in the transaction.]

(3) The failure of a seller to comply with the provisions of this section does not invalidate an instrument of conveyance executed in the transaction.

(4) This section does not apply to any transaction for the conveyance of real estate that includes a water right when the permit, transfer approval order or certificate evidencing the water right is held in the name of a district or corporation formed pursuant to ORS chapter 545, 547, 552, 553 or 554.

(5) As used in this section:

(a) "Certificate" means a certificate or registration issued under ORS 537.250 (1), 537.585, 539.140 or 539.240.

(b) "Permit" means a permit issued under ORS 537.211, 537.240 or 537.625.

(c) "Transfer approval order" means an order of the Water Resources Commission issued under ORS 540.530.

SECTION 2. ORS 537.130 is amended to read:

537.130. (1) Except for a use exempted under ORS 537.040, 537.141, 537.142, 537.143 or 537.800 or under the registration system set forth in ORS *[537.020 or]* 537.132, any person intending to ac-

quire the right to the beneficial use of any of the surface waters of this state shall, before beginning construction, enlargement or extension of any ditch, canal or other distributing or controlling works, or performing any work in connection with the construction, or proposed appropriation, make an application to the Water Resources Department for a permit to make the appropriation.

(2) Except for a use exempted under ORS 537.040, 537.141, 537.142, 537.143 or 537.800 or under the registration system set forth in ORS [537.020 or] 537.132, [no person shall] **a person may not** use, store or divert any waters until after the department issues a permit to appropriate the waters.

(3) The department [shall] **may** not issue a permit without notifying the owner, as identified in the application, of any land to be crossed by the proposed ditch, canal or other work as set forth in the application filed pursuant to ORS 537.140. The department shall provide the notice even if the applicant has obtained written authorization or an easement from the owner.

(4) If more than 25 persons are identified in the application as required under subsection (3) of this section, the department may provide the notice required under subsection (3) of this section by publishing notice of the application in a newspaper having general circulation in the area in which the proposed ditch, canal or other work is located at least once each week for at least three successive weeks. The cost of the publication shall be paid by the applicant in advance to the department.

SECTION 3. ORS 537.793 is amended to read:

537.793. Failure of a seller to comply with the provisions of ORS [537.788,] 537.789 or 537.791 does not invalidate an instrument of conveyance of real estate.

SECTION 4. ORS 537.015, 537.017, 537.020, 537.022, 537.025, 537.027, 537.030, 537.032 and 537.788 are repealed.

Passed by House February 28, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate March 17, 2005

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President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State