

## ADVISORY REGARDING TIMBER PROPERTY

Purchases and sales of properties that include standing timber, or from which timber was recently harvested, may be subject to the Oregon Forest Practices Act (the “Act”). Because failure to comply with that Act can subject buyers and sellers to financial penalties, buyers and sellers should be aware of the requirements of the Act. The Act applies to establishing, managing, and harvesting trees on a commercial basis in Oregon. As used here, “commercial” does not refer to the property type; instead, it refers to a commercial activity, such as harvesting.

**1. FOREST PRACTICES ACT REQUIREMENTS:** Property owners are required to:

- (a) notify the Oregon Department of Forestry (“ODF”) online fifteen (15) or more calendar days before conducting any regulated forest activities;
- (b) begin replanting replacement trees within twelve (12) months of a harvest and finish within twenty-four (24) months;
- (c) protect the soil, air, and water if slash will be burned or chemicals will be applied;
- (d) refrain from harvesting trees along streams, wetlands, lakes, wildlife habitat, and scenic highways; and
- (e) protect the public against landslides, fires, pollution, and other hazards when harvesting or building roads.

There are many other requirements. These rules, as well as fees and penalties for noncompliance, can be enforced against property owners, even if they recently acquired their property. Buyers of properties that could be or have recently been harvested should determine whether sellers have complied with applicable requirements. Sellers are required to disclose what compliance activities have and have not been completed. Buyers may be entitled to sue sellers who do not disclose for the costs of complying with reforestation requirements and attorney fees.

**2. EXEMPTIONS:** There are many exemptions from the Act, including the following:

- (a) Some types of trees are exempt (for example, Christmas, orchard, nursery, most hardwood, and ornamental);

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(b) Some lands are not covered (for example, near residences, regulated within urban growth boundaries, and on tribal land);

(c) Some activities do not constitute the establishing, managing, or harvesting of forest trees; and

(d) Some uses may not be commercial, such as when there is no income or profit (for example, personal use).

Changes that are not established, continuous, *bona fide* changes from forest uses do not qualify for exemptions.

**3. ENFORCEMENT:** The ODF enforces the Act in various ways:

(a) it reviews plans for forestry work such as logging, road construction, and chemical use;

(b) oversees the logging and other activities within forests;

(c) makes sure that reforestation occurs after logging;

(d) investigates claims that the Act has been violated;

(e) coordinates with other federal, state, and local agencies that may affect forest activities; and

(f) enforces fines and takes other actions against violators.

**4. LEGAL ADVICE:** The laws and rules about forest practices are detailed and technical. Buyers and sellers should obtain the advice of a consultant or attorney familiar with forestry laws before becoming obligated to buy or sell forest land. Real estate agents cannot give legal advice.

**5. ACKNOWLEDGMENT:** The undersigned acknowledge that they: (a) have read and understand this advisory; (b) have been provided with a copy for their own files; and (c) are aware that real estate agents are not experts and consultation with a forestry consultant or attorney is recommended before agreeing to buy or sell real estate that includes timber.

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