Attorney explains pitfalls of farm succession planning

By GEORGE PLAVEN
Capital Press

SALEM — As Oregon farmers and ranchers get older, the need for estate planning is growing more urgent to ensure working lands remain in operation.

Maria Schmidlkofer, an Oregon attorney with 13 years of experience with farm succession plans, knows the pitfalls all too well.

George Plaven/Capital Press

Maria Schmidlkofer, an Oregon attorney with 13 years of experience with farm succession plans, gave a seminar Wednesday at the 50th Northwest Ag Show.

Family dynamics, disability or lack of foresight can all complicate the passing of farmland from one generation to the next, Schmidlkofer said during her educational seminar Wednesday at the 50th annual Northwest Ag Show in Salem.

According to a 2016 study by Oregon State University, Portland State University and Rogue Farm Corps, farm operators over the age of 55 now control 64% of the state's agricultural lands. That means roughly 10 million acres are likely to change ownership over the next two decades.

It is up to lawyers like Schmidlkofer, with the firm Schwabe, Williamson & Wyatt in Salem, to help that transition happen smoothly with well thought out succession plans.

"If you have a farm in this room, chances are you need a living trust," Schmidlkofer said. "It's just so much easier for tax planning, for transitioning (farms) to the next generation. I think it's just a far superior way of doing that."

As part of her presentation, Schmidlkofer explained the difference between wills and trusts, and outlined the process of establishing a limited liability corporation — or LLC — to incorporate multiple generations in the farm who may one day take over the business.

Most estate plans also address things like mental or physical disabilities, Schmidlkofer said, to ensure succession does not get muddled in those cases.

While these are sometimes depressing subjects to consider, Schmidlkofer said it is worth it to avoid heartache and family rifts later.

"If there is anything a bad farm plan does, it is tear apart a family," she said. "You do not recover from that."

To highlight common errors, Schmidlkofer used several examples from real-life celebrity cases.

Actor James Dean, who died in 1955 at age 24, never wrote a will, meaning his entire estate was passed to his father — even though his father had abandoned him as a child.

"The first lesson here is to make sure you at least get something in place," Schmidlkofer said.

Actress, singer and model Marilyn Monroe left 75% of her estate to her acting coach, Lee Strasberg, with "wishes" to donate the rest to charity. Strasberg later married, however, and when he died in 1982, the estate plus all licensing and royalty fees went to his widow.

Oregon Farm Bureau braces for 2020 legislative session

Seminar kicks off 50th Northwest Ag Show

By GEORGE PLAVEN
Capital Press

SALEM — While cap-and-trade legislation is once again expected to dominate the 2020 Oregon Legislature, it is hardly the only proposal with serious implications for the state's farmers and ranchers.

Jonathan Sandau, public policy specialist for the Oregon Farm Bureau, provided a legislative update Wednesday morning at the 50th Northwest Ag Show, including efforts to exempt agricultural products from the new "corporate activity tax" that passed last year.

George Plaven/Capital Press

Jonathan Sandau, public policy specialist at the Oregon Farm Bureau, provided a legislative update Wednesday at the 2020 Northwest Ag Show in Salem.

The short legislative session begins Feb. 3 and runs through March 8. Democrats continue to hold a supermajority in both chambers of the statehouse.

If 2019 was any indication, the return of cap-and-trade legislation should stir up plenty of controversy in the weeks ahead. The policy calls for setting a cap on carbon emissions to combat climate change. Companies would then buy allowances on the open market to exceed the limit, and money raised would go into a funding pool for climate-friendly initiatives.

Introduced as House Bill 2020, cap and trade passed the Oregon House along a party-line vote last year but was defeated in the Senate after 11 Republican senators staged a walkout and several Democrats indicated they would vote against the bill.

Lawmakers recently announced a revised concept for cap and trade, which Sandau said is similar in structure to HB 2020. The agriculture and timber industries would be exempt from purchasing allowances under the program, though he said producers would still face increased costs for fuel, natural gas, propane and electricity.

What's more, Oregon's carbon footprint makes up just 0.7% of total U.S. emissions, and 0.1% of global emissions, Sandau said.

"There are lot of questions about how much economic impact this would have, versus how much benefit in terms of collective impact on the global scale," he said.

Angelita Sanchez, a board member of the group Timber Unity, which rallied against HB 2020, went into greater detail on the newest cap-and-trade proposal during her seminar Wednesday at the Northwest Ag Show.

Corporate activity tax

The Farm Bureau is spearheading another legislative concept to exempt agricultural products from the corporate activity tax, which Sandau said will address uncertainty and inequity among growers who export their crops.

Oregon's corporate activity tax requires businesses that make more than $1 million annually to pay an additional 0.57% tax on that "excess" revenue. It is expected to raise $2.8 billion over the 2021-2023 biennium for schools.

But Sandau said the tax structure presents unique challenges in farm country.

The tax is not supposed to apply to out-of-state sales, though Sandau said agricultural exports are often commingled — such as grain or berries that are sold to the same processor or wholesaler. That makes it difficult to certify what is actually exempt from the tax at the farm level.

"There's just a lot of confusion on how this actually works on the ground for a lot of these guys," Sandau said.

Sandau said the best solution is to create a single, clear-cut exemption for agriculture. The exemption would also create an even playing field between producers who often don't have a say on where their products are sold, Sandau added.

"We very much think that this is a technical problem with the bill, and how it's applied," he said.

Other legislation

Though bills will not be publicly released until Jan. 27, Sandau did mention a few other legislative concepts the Farm Bureau is following.

Lawmakers are likely to revive a bill to create a commodity commission for industrial hemp, which Sandau said could assist Oregon State University's Global Hemp Innovation Center with funding research and developing markets for the crop.

The Legislature may also try again on a statewide ban for chlorpyrifos, a commonly used pesticide in the Willamette Valley where Sandau said nurseries and specialty crop growers have no other viable alternatives. A proposed ban failed during the 2019 session.

Wildfire is sure to be another hot topic, Sandau said, with the governor's 120-page omnibus wildfire response bill.

"This is a beast of a (legislative concept)," he said. "It is wide-reaching."

Financial expert urges farmers to stop using LIBOR loans

By SIERRA DAWN MCCLAIN
Capital Press

SALEM — Robert Owens, a Washington, D.C.-based financial strategy director for Farmer Mac, said farmers whose loans are tied to LIBOR interest rates should switch interest programs before the risks get too high.

"Get out fast," said Owens. "Be proactive as borrowers. Talk to your bank and say, 'I don't want LIBOR anymore.' Be ahead of this game and eliminate LIBOR exposures on loans. Mitigate your risk."

Sierra Dawn McClain/Capital Press

Robert Owens of Farmer Mac spoke about interest rates on ag loans Thursday at the Northwest Ag Show in Salem.

Owens spoke Thursday at the 2020 Northwest Ag Show in Salem, Ore.

LIBOR stands for London Interbank Offered Rate, used around the world as the most common benchmark interest rate for making adjustments to variable-rate loans and credit cards.

LIBOR, Owens explained, was in part responsible for manipulating the interest rate that led to the financial crisis in 2008. Because of its role in allowing artificially low interest rates, Owen said, regulators have "vilified" LIBOR.

Regulators have said that by the end of 2021, LIBOR will no longer exist in the U.S. and will be replaced by SOFR, a secured overnight rate of lending.

The good side of SOFR is that it can't be easily manipulated. The bad side is that since it's an overnight rate, it varies day-to-day and borrowers have no way of predicting how much they'll have to pay.

With LIBOR on the verge of ending and another imperfect SOFR system on the horizon, Owens said he understands farmers' concerns about what to do.

He advises that farmers back out of LIBOR because, when it ends in 2021, loans will default to other interest systems that may not be to a farmer's advantage and that may carry greater risks. Owens said he suggests farmers find an alternative that works better for them well in advance.

One such alternative program is available through Farmer Mac, the organization Owens represents. Farmer Mac has already eliminated LIBOR from its loan program, and instead plans to offer credit at a cost-of-funds rate so that borrowers won't have to worry about the overnight rate when SOFR kicks in.

"It's gonna be a bridge since borrowers don't like having a daily rate that doesn't let them see what it'll be until they pay it," said Owens.

Farmer Mac is a national organization whose purpose is to make credit more affordable and available for American agriculture and rural communities. Farmer Mac aims to make loans at relatively low interest rates available to farms, especially small-scale and family-owned farms that might otherwise be forced to close.

Owens said in 2019, 95% of the farms working with Farmer Mac were family-owned.

Congress founded Farmer Mac during the ag credit crisis of the 1980s, which Owens described as "a very dark time for rural America." Owens said he hopes Farmer Mac will continue to keep rural America from reaching such a crisis point again.

"I hope farmers take action before things change next year," said Owens. "We'll still be around in 2021, knock on wood." He drummed his knuckles on the table and laughed. "Congress likes us, and so do farmers."

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TRUSTEE'S NOTICE OF SALE Loan No: 286394 T.S. No.: NR-51579-OR Reference is made to that certain deed made by, BRIAN J NEWRONES AND AMY L. NEWRONES, AS TENANTS BY THE ENTIRETY as Grantor to AMERITITLE, as trustee, in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC "MERS" SOLELY AS NOMINEE FOR EQUITY ONE, INC., ITS SUCCESSORS AND/OR ASSIGNS, as Beneficiary, dated 3/26/2003, recorded 3/21/2003, in official records of Marion County, Oregon in book/reel/volume No. 2095 at page No. 309, fee/file/instrument/microfile/reception No. XX (indicated which), covering the following described real property situated in said County and State, to-wit: APN: R63582 Lot 46, WATERFORD ADDITION,, City of Keizer, Marion County, Oregon. Property Commonly known as: 1376 Wisdom Avenue Northeast Salem, OR 97303 Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and notice has been recorded pursuant to Section 86.735(3) of Oregon Revised Statutes: the default for which the foreclosure is made is the grantor's: The balance of principal and interest which became due on 4/1/2018, along with late charges, foreclosure fees and costs any legal fees or advances that have become due. Monthly Payment $1,168.08 By this reason of said default the beneficiary has declared all obligations secured by said deed of trust immediately due and payable, said sums being the following, to-wit: The sum of $124,841.38 together with interest thereon at the rate of 7.25 % per annum from 9/1/2011 until paid; plus all accrued late charges thereon; and all trustee's fees, foreclosure costs and any sums advanced by the beneficiary pursuant to the terms of said deed of trust. Whereof, notice hereby is given that Darren J. Devlin, Esq., the undersigned trustee will on 2/24/2020 at the hour of 10:00 AM, Standard of Time, as established by section 187.110, Oregon Revised Statues, at AT THE HIGH STREET ENTRANCE TO MARION COUNTY COURTHOUSE 100 HIGH STREET NE, SALEM,OREGON County of Marion, State of Oregon, sell at public auction to the highest bidder for cash the interest in the said described real property which the grantor had or had power to convey at the time of the execution by him of the said trust deed, together with any interest which the grantor or his successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee. Notice is further given that any person named in Section 86.753 of Oregon Revised Statutes has the right to have the foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of said principal as would not then be due had no default occurred), together with the costs, trustee's and attorney's fees and curing any other default complained of in the Notice of Default by tendering the performance required under the obligation or trust deed, at any time prior to five days before the date last set for sale. TRUSTEE'S NOTICE OF SALE In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes plural, the word "grantor" includes any successor in interest to the grantor as well as any other persons owing an obligation, the performance of which is secured by said trust deed, the words "trustee" and 'beneficiary" include their respective successors in interest, if any. Without limiting the trustee's disclaimer of representation or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale. Darren J. Devlin, Esq 5677 Oberlin Drive Suite 210 San Diego, CA by Darren J. Devlin (IFS# 17905, 01/08/20, 01/15/20, 01/22/20, 01/29/20) S165085-1

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ADELL LN STORAGE
2680 Cherry Ave. NE
Salem, OR 97301
(503) 399-7454

Unit AS-09 - William Meredith
Unit AS-33 - Elvis Cevantes
Unit AS-47 - Aaron Edmaiston
Unit AS-61 - Alena Virgilio
Unit AS-74 - Dennis O'Brien
Unit AS-99 - Tiffany Jones
Unit AS-114 - Dennis O'Brien

CHERRY AVE STORAGE
2680 Cherry Ave. NE
Salem, OR 97301
(503) 399-7454

Unit 33 - Kim Rivas
Unit 65 - Lillian Long
Unit 97 - Enrique "Ricky" Ramirez
Unit 98 - Jerry Stevens
Unit 114 - Kim Rivas
Unit 131 - Steven Ruchedeschel
Unit 142 - Enrique "Ricky" Ramirez
Unit 188 - Blas Nunez Vizcaxa
Unit 196 - Kenneth Kish
Unit 206 - Ronald Burton
Unit 220 - Steven Ruchedeschel
Unit 222C - Ashley Bailey
Unit 237P - Krista Woods
Unit 239U - Blas Nunez Vizcaxa

Auction is:
Saturday, February 8th, 2020 at 10 AM

Cherry Avenue Storage reserves the right to refuse any and all bids.

S167896-1

OREGON TECHNICAL ADVISORY COMMITTEE MEETING (OTAC)

When: Jan 28, 2020 -10:00am
Where: Oregon FSA Office
7620 SW Mohawk St.
Tualatin, OR 97062

For more information, or to arrange special accommodations for meeting attendees, please contact Julie MacSwain at 503-414-3250 or email to: Julie.macswain@usda.gov

S151537-1

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 01/31/2020. The sale will be held at 10:00am by

COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2016 JEEP RENEGADE 4DR
VIN=ZACCJBDTXGPC86647

Amount due on lien $1,795.00
Reputed owner(s)

ROSEMARY POWERS & ESTHER WRIGHT
ONPOINT COMMUNITY C.U

S165841-1

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 01/27/2020. The sale will be held at 10:00am by

GEICO CASUALTY
2885 NATIONAL WAY WOODBURN, OR
2018 FORD MUSTANG CV
VIN=1FATP8UH3J5155109

Amount due on lien $1,275.00
Reputed owner(s)

REBECCA ANN BOND HEAGY
RED CANOE CREDIT UNION

S165840-1

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 01/27/2020. The sale will be held at 10:00am by

NATIONAL GENERAL INSURANCE
2885 NATIONAL WAY WOODBURN, OR
2017 KIA SEDONA VAN
VIN=KNDMB5C14H6327572

Amount due on lien $1,315.00
Reputed owner(s)

ROBERT F & REBECCA L BUTLER
CENTRAL WILLAMETTE C.C.C

S165839-1