

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	9 - 0 - 0
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson
Nays:	0
Exc.:	0
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	4/17

WHAT THE MEASURE DOES: Establishes that a person may not acquire property by adverse possession if it is owned by a railroad or used for a railroad operation.

ISSUES DISCUSSED:

- The law of adverse possession
- Railroad property rights
- Safety issues that arise when people encroach on railroad rights-of-way
- License agreements for private crossings of railroad tracks
- Need to preserve rights-of-way to have option of expanding railroad lines

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 105.620 provides that a person may acquire property by “adverse possession” if the person or the person’s predecessors in interest: (a) has maintained actual, open, notorious, exclusive, hostile and continuous possession of the property for at least 10 years, and (b) had an honest and objectively reasonable belief that he or she was the actual owner of the property during the 10-year period. Put more simply, a person can take ownership of some other person’s land if he or she openly possess the property without permission for 10 years (for example, they live in a house on the property where others can see them, or they farm the land), when they reasonably believe that they own the property. There are several theories behind the doctrine, including that it rewards the productive use of land, while penalizing the unproductive owner who sleeps on his rights. Others have argued that the doctrine protects the “reliance” interest of the adverse possessor, because open trespassing puts the true owner on notice that they should assert their right to the property, before the trespasser invests in the land. HB 2853 would establish that a person may not acquire property by adverse possession if it is owned by a railroad or used for a railroad operation.