

House Bill 2425

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of former Representative Jeff Kropf)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that public body may condemn property only if public body's primary purpose is to allow property to be owned and used by public. Prohibits condemnation if public body's primary purpose is conveyance of condemned property or interest in condemned property to private party. Exempts condemnation of certain properties.

Requires that court independently determine whether taking of property complies with requirements of Act. Provides that defendant in condemnation action who prevails by reason of determination that taking does not comply with requirements of Act be awarded attorney fees and amount equal to five times amount offered by public body for defendant's property.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to purposes for which property may be condemned; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 35.**

5 **SECTION 2. (1) Except as otherwise provided in this section, a public body as defined in**
6 **ORS 174.109 may condemn property only if at the time the public body takes the property the**
7 **public body's primary purpose is to allow the property to be owned and used by the public.**
8 **The public body's primary purpose may not be the conveyance of the condemned property**
9 **or an interest in the condemned property to a private party.**

10 **(2) Subsection (1) of this section does not apply to condemnation of:**

11 **(a) Property located within a blighted area or slum area where there are located buildings**
12 **and improvements that are detrimental to the safety, health and welfare of the community**
13 **by reason of dilapidation, overcrowding, lack of ventilation, light and sanitary facilities, del-**
14 **eterious land use or any combination of these factors;**

15 **(b) Unimproved real property that constitutes a danger to the safety, health and welfare**
16 **of the community by reason of contamination or other condition of the property;**

17 **(c) Unimproved land zoned on the effective date of this 2007 Act for industrial use;**

18 **(d) Any timber, crops, top soil, gravel or fixtures to be removed from the property that**
19 **are a part of a condemnation authorized pursuant to ORS 366.320 or 366.340;**

20 **(e) Property condemned pursuant to ORS 366.333;**

21 **(f) Property condemned pursuant to ORS 366.335;**

22 **(g) Property condemned pursuant to ORS 367.818; and**

23 **(h) Property condemned pursuant to ORS 777.116 or 778.025.**

24 **(3) A public body as defined in ORS 174.109 may at any time publish notice that the public**
25 **body intends to consider adoption of an urban renewal plan, as defined in ORS 457.010, for**
26 **one or more urban renewal areas, as defined in ORS 457.010. If the public body publishes**
27 **notice under this subsection, subsection (1) of this section does not apply to any property**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 that is within the urban renewal areas described in the notice and that is purchased after
2 the notice is published.

3 (4) Subsection (1) of this section does not affect the ability of a public body as defined in
4 ORS 174.109 to make a conveyance of condemned property for the purpose of financing ac-
5 quisition of the property if at the time the public body takes the property the public body's
6 primary purpose is to allow the property to be owned and used by the public.

7 (5) A court shall independently determine whether a taking of property complies with the
8 requirements of this section and shall disregard any legislative findings or other legislative
9 statements relating to the purpose of the taking, or relating to whether the taking is subject
10 to an exception provided by this section.

11 (6) If a public body as defined in ORS 174.109 commences a condemnation action against
12 any person and the person prevails in the action based on the provisions of this section, the
13 court shall award to the prevailing defendant:

14 (a) The defendant's reasonable attorney fees; and

15 (b) An amount equal to five times the amount of the written offer made to the defendant
16 under ORS 35.346 (1).

17 SECTION 3. Section 2 of this 2007 Act applies only to condemnations for which an initial
18 written offer is made under ORS 35.346 on or after the effective date of this 2007 Act.

19 SECTION 4. This 2007 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
21 on its passage.
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