

# Senate Bill 492

Sponsored by Senator PROZANSKI (at the request of John Brown)

## 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**.

Allows condemner to offer just compensation to property owner without prior attempt at agreement if condemner determines just compensation amount is less than \$500. States result of property owner acceptance or rejection of offer.

## A BILL FOR AN ACT

1  
2 Relating to just compensation for the condemnation of property; creating new provisions; and  
3 amending ORS 35.235.

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

5 **SECTION 1.** ORS 35.235 is amended to read:

6 35.235. (1) Subject to ORS 758.015 and 836.050, whenever in the judgment of the condemner it  
7 is necessary to acquire property for a purpose for which the condemner is authorized by law to  
8 acquire property, **except as provided in subsection (6) of this section** the condemner shall, after  
9 first declaring by resolution or ordinance such necessity and the purpose for which it is required,  
10 attempt to agree with the owner with respect to the compensation to be paid therefor, and the  
11 damages, if any, for the taking thereof.

12 (2) The resolution or ordinance of a public condemner is presumptive evidence of the public  
13 necessity of the proposed use, that the property is necessary therefor and that the proposed use,  
14 improvement or project is planned or located in a manner which will be most compatible with the  
15 greatest public good and the least private injury.

16 (3) The commencement of an action to condemn property by a private condemner creates a  
17 disputable presumption of the necessity of the proposed use, that the property is necessary therefor  
18 and that the proposed use, improvement or project is planned or located in a manner which will be  
19 most compatible with the greatest public good and the least private injury.

20 (4) The question of the validity of the disputable presumptions created in subsection (3) of this  
21 section, if raised, shall be determined by the court in a summary proceeding prior to trial.

22 (5) It is not a prerequisite to the exercise of the right of eminent domain by the condemner to  
23 attempt first to agree with an owner or to allege or prove any effort to agree with such owner as  
24 to reasonable value, when such owner is at the time concealed within the state or, after reasonable  
25 effort by condemner, cannot be found within the state.

26 **(6) If the condemner determines that the amount of just compensation for the acquired**  
27 **property is less than \$500, the condemner may offer the just compensation amount to the**  
28 **owner without first attempting to reach agreement with the owner. An offer under this**  
29 **subsection shall be by certified mail and accompanied by information that specifically de-**  
30 **scribes the property being condemned, the bases and method by which the condemner de-**  
31 **termined the just compensation amount and the actions the owner must take if the owner**

**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 wishes to reject the offer. Acceptance of the offer constitutes agreement between the  
2 condemner and owner regarding just compensation for the acquired property. An offer under  
3 this subsection is deemed accepted if the owner does not deliver written notice of rejection  
4 to the condemner on or before 60 days after the date the owner receives the offer. If the  
5 owner rejects the offer, the condemner shall attempt to reach agreement with the owner  
6 regarding just compensation before proceeding with any action under ORS 35.245.

7 SECTION 2. The amendments to ORS 35.235 by section 1 of this 2009 Act apply to con-  
8 demnations for which the condemner declares the necessity and purpose by resolution or  
9 ordinance on or after the effective date of this 2009 Act.

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