

**Enrolled**  
**House Bill 2370**

Sponsored by Representative NATHANSON; Representatives BARKER, DEMBROW, DOHERTY, GELSER, GREENLICK, HOYLE, HUNT, KOTEK, J SMITH (Presession filed.)

CHAPTER .....

AN ACT

Relating to public real property near rail infrastructure; creating new provisions; and amending ORS 271.310.

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

**SECTION 1.** ORS 271.310 is amended to read:

271.310. (1) Except as provided in subsection (2) of this section **and subject to subsection (3) of this section**, whenever any political subdivision possesses or controls real property not needed for public use, or whenever the public interest may be furthered, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of [*their*] **the political subdivision's** interest in the property to a governmental body or private individual or corporation. The consideration for the transfer or lease may be cash or real property, or both.

(2) If the ownership, right or title of the political subdivision to any real property set apart by deed, will or otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased persons, is limited or qualified or the use of [*such*] **the** real property is restricted, whether by dedication or otherwise, the political subdivision may, after the county court or governing body thereof has first declared by resolution that [*such*] **the** real property is not needed for public use, or that the sale, exchange, conveyance or lease [*thereof*] **of the real property** will further the public interest, file a complaint in the circuit court for the county in which [*such*] **the** real property is located against all persons claiming any right, title or interest in [*such*] **the** real property, whether the interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all or any part of [*such*] **the** real property. The resolution is prima facie evidence that [*such*] **the** real property is not needed for public use, or that the sale, exchange, conveyance or lease will further the public interest. The action shall be commenced and prosecuted to final determination in the same manner as an action not triable by right to a jury. The complaint shall contain a description of [*such*] **the** real property, a statement of the nature of the restriction, qualification or limitations, and a statement that the defendants claim some interest therein. The court shall make such judgment as it shall deem proper, taking into consideration the limitation, qualifications or restrictions, the resolution, and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against any defendant.

**(3)(a) At least 30 days before listing or placing real property for sale, exchange or conveyance, a political subdivision shall notify the Department of Transportation of its intent to sell, exchange or convey the real property if the real property is within 100 feet of a railroad right of way or is within 500 feet of an at-grade rail crossing.**

(b) The department shall share the advance notice with private providers of rail service that might be interested in obtaining the real property to facilitate the current delivery or future expansion of rail service. Notwithstanding the benefit of receiving advance notice, a private provider of rail service may not obtain or enter into negotiations to obtain the real property until the political subdivision offers the real property for sale, exchange, conveyance or lease to the general public. As used in this paragraph, "general public" includes private providers of rail service.

(c) Paragraph (a) of this subsection does not apply to light rail corridors and any other rail corridors excluded by rule of the department.

(d) The department shall adopt rules to implement this subsection. The rules may include provisions that:

(A) Identify rail corridors within which a political subdivision is not required to provide notice of intention to sell, exchange or convey real property within 100 feet of a railroad right of way or within 500 feet of an at-grade rail crossing.

(B) Establish a process for providing advance notice to private providers of rail service.

[(3)] (4) Unless the governing body of a political subdivision determines under subsection (1) of this section that the public interest may be furthered, real property needed for public use by any political subdivision owning or controlling the property [shall] **may** not be sold, exchanged, [leased or conveyed] **conveyed or leased** under the authority of ORS 271.300 to 271.360, except that it may be exchanged for property [which] **that** is of equal or superior useful value for public use. Any such property not immediately needed for public use may be leased if, in the discretion of the governing body having control of the property, [it] **the property** will not be needed for public use within the period of the lease.

[(4)] (5) The authority to lease property granted by this section includes authority to lease property not owned or controlled by the political subdivision at the time of entering into the lease. [Such] **A lease under this subsection** shall be conditioned upon the subsequent acquisition of the interest covered by the lease.

**SECTION 2. The amendments to ORS 271.310 by section 1 of this 2011 Act apply to real property first offered for sale, exchange, conveyance or lease on or after the effective date of this 2011 Act.**

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**Passed by House May 2, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate June 7, 2011**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

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Kate Brown, Secretary of State