

House Bill 3190

Sponsored by Representative WEIDNER; Representatives BARKER, BARNHART, BENTZ, BERGER, BOONE, BREWER, CAMERON, CONGER, ESQUIVEL, FREEMAN, GARRARD, GARRETT, GREENLICK, HANNA, HOYLE, HUFFMAN, JENSON, JOHNSON, KRIEGER, MATTHEWS, PARRISH, SCHAUFLEER, SHEEHAN, G SMITH, THATCHER, THOMPSON, WAND, WHISNANT, WINGARD, WITT, Senators BOQUIST, GEORGE, GIROD, MORSE, TELFER, WHITSETT

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**.

Requires that certain agreements for acquisition of real property by condemner contain provision relating to repurchase of property in event property is not used for public purpose. Provides that if agreement does not contain required provision, owner may repurchase property, or any portion of property, if 10 years have expired since transfer and condemner has not used property for public purpose.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to eminent domain; creating new provisions; amending ORS 35.385; and declaring an emer-
3 gency.

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

5 **SECTION 1.** ORS 35.385 is amended to read:

6 35.385. (1) If real property is acquired by a condemner by agreement with the owner of such
7 property after [*commencement of an action under ORS 35.245*] **the adoption of a resolution or or-**
8 **dinance under ORS 35.235 (1)** for the [*appropriation*] **acquisition** of [*such*] **the** property but [*prior*
9 *to*] **before entry of a** judgment in [*such*] **a condemnation** action **under ORS 35.245**, the condemner
10 and the owner shall:

11 (a) Specify in such agreement for the real property a reasonable period within which the real
12 property must be used by the condemner for a public purpose or specify a 10-year period for such
13 use and provide that the right of repurchase of the real property or any portion thereof may be
14 exercised as provided in ORS 35.385 to 35.415; or

15 (b) Specify that the right of repurchase of the real property has been waived by the owner and,
16 in such case, not specify a period within which the real property must be used by the condemner
17 for a public purpose.

18 (2) If real property is acquired by a condemner under this chapter by judgment given in a con-
19 demnation action under ORS 35.325, the court shall:

20 (a) Specify in the judgment a reasonable period within which the real property must be used by
21 the condemner for a public purpose or specify a 10-year period, and provide that the right of re-
22 purchase may be exercised with respect to the real property as provided in ORS 35.385 to 35.415;
23 or

24 (b) Specify that the right of repurchase of the real property has been waived by the owner and,
25 in such case, not specify a period within which the real property must be used by the condemner
26 for a public purpose.

27 (3) For the purposes of subsection (2)(a) of this section, the resolution or ordinance of the

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 condemner is presumptive evidence that the period of time that is proposed by the condemner is a
2 reasonable period in which the real property must be used by the condemner for a public purpose;
3 provided, however, that if the resolution or ordinance specifies a 10-year period or less, neither the
4 owner nor a designated beneficiary of the owner can contest the reasonableness of the period
5 specified.

6 **(4) If real property is acquired by a condemner by agreement with the owner as described**
7 **in subsection (1) of this section, and the agreement does not contain one of the provisions**
8 **required by subsection (1)(a) or (b) of this section, the owner may repurchase the property,**
9 **or any portion of the property, in the manner provided by ORS 35.385 to 35.415 if:**

10 **(a) Ten years have expired since the date of the transfer of the property; and**

11 **(b) The condemner has not used the property for a public purpose.**

12 **SECTION 2. The amendments to ORS 35.385 by section 1 of this 2011 Act apply to all**
13 **agreements for acquisition by a condemner as described in ORS 35.385 (1), whether entered**
14 **into before, on or after the effective date of this 2011 Act.**

15 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
17 **on its passage.**