

Enrolled
Senate Bill 619

Sponsored by Senator BOQUIST, Representative WEIDNER

CHAPTER

AN ACT

Relating to eminent domain; creating new provisions; amending ORS 35.385; and declaring an emergency.

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

SECTION 1. ORS 35.385 is amended to read:

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

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

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

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

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

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

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

(4) If real property is acquired by a condemner by agreement with the owner as described in subsection (1) of this section, and the agreement does not contain one of the provisions

required by subsection (1)(a) or (b) of this section, the owner may repurchase the property, or any portion of the property, in the manner provided by ORS 35.385 to 35.415 if:

- (a) Ten years have expired since the date of the transfer of the property; and
- (b) The condemner has not used the property for a public purpose.

(5) Subsection (4) of this section does not apply to real property acquired by a condemner for the purpose of constructing, improving or maintaining a transportation facility or system.

SECTION 2. The amendments to ORS 35.385 by section 1 of this 2011 Act apply only to agreements for acquisition by a condemner as described in ORS 35.385 (1) that are entered into on or after the effective date of this 2011 Act.

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

Passed by Senate May 3, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 8, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

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