

35.010 [Repealed by 1971 c.741 §38]

LIMITATION OF CONDEMNATION POWER

35.015 Prohibition on condemnation of certain properties with intent to convey property to private party; exceptions.

(1) Except as otherwise provided in this section, a public body as defined in ORS 174.109 may not condemn private real property used as a residence, business establishment, farm or forest operation if at the time of the condemnation the public body intends to convey fee title to all or a portion of the real property, or a lesser interest than fee title, to another private party.

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

(a) Improved or unimproved real property that constitutes a danger to the health or safety of the community by reason of contamination, dilapidated structures, improper or insufficient water or sanitary facilities, or any combination of these factors;

(b) Any timber, crops, topsoil, gravel or fixtures to be removed from the real property being condemned; or

(c) Real property condemned for maintenance, improvement, or construction of transportation facilities, transportation systems, utility facilities or utility transmission systems.

(3) Subsection (1) of this section does not prohibit a public body from leasing a portion of a public facility to a privately owned business for the provision of retail services designed primarily to serve the patrons of the public facility.

(4) A public body as defined in ORS 174.109 may at any time publish notice that the public body intends to consider condemnation of a lot or parcel. If the public body publishes notice under this subsection, subsection (1) of this section does not apply for such time necessary to provide the public body reasonable opportunity to condemn the property, if the lot or parcel is conveyed by the owner of the lot or parcel to another private party after the notice is published, but prior to the time the property is condemned.

(5) Subsection (1) of this section does not affect the ability of a public body as defined in ORS 174.109 to make a conveyance of a nonpossessory interest in condemned property for the purpose of financing acquisition of the property.

(6) A court shall independently determine whether a taking of property complies with the requirements of this section, without deference to any determination made by the public body. If a court determines that a

taking of property does not comply with the requirements of this section, the owner of the lot or parcel that is the subject of the condemnation proceeding shall be entitled to reasonable attorney fees, expenses, costs and other disbursements reasonably incurred to defend against the proposed condemnation. [2007 c.1 §2; 2009 c.11 §6]

35.018 Severability. If any portion or portions of chapter 1, Oregon Laws 2007, are declared invalid by a court of competent jurisdiction, the remaining portions of chapter 1, Oregon Laws 2007, shall remain in full force and effect. [2007 c.1 §3]

Note: 35.018 was enacted into law but was not added to or made a part of ORS chapter 35 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

Note: Legislative Counsel has substituted “chapter 1, Oregon Laws 2007,” for the words “this 2006 Act” in section 3, chapter 1, Oregon Laws 2007, compiled as 35.018. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2007 Comparative Section Table located in Volume 20 of ORS.

35.020 [Repealed by 1971 c.741 §38]

35.030 [Repealed by 1971 c.741 §38]

35.040 [Amended by 1967 c.479 §1; repealed by 1971 c.741 §38]

35.050 [Repealed by 1971 c.741 §38]

35.060 [Repealed by 1971 c.741 §38]

35.070 [Amended by 1967 c.479 §2; repealed by 1971 c.741 §38]

35.080 [Repealed by 1971 c.741 §38]

35.085 [1967 c.479 §§4,5; repealed by 1971 c.741 §38]

35.090 [Repealed by 1971 c.741 §38]

35.100 [Repealed by 1971 c.741 §38]

35.105 [1967 c.479 §6; repealed by 1971 c.741 §38]

35.110 [Repealed by 1971 c.741 §38]

35.120 [Repealed by 1971 c.741 §38]

35.130 [Repealed by 1971 c.741 §38]

35.140 [Repealed by 1971 c.741 §38]

PROCEDURE

35.205 Short title. This chapter may be cited as the General Condemnation Procedure Act. [1971 c.741 §2]

35.215 Definitions for chapter. As used in this chapter, unless the context otherwise requires:

(1) “Condemner” means the state, any city, county, school district, municipal or public corporation, political subdivision or any instrumentality or any agency thereof or a private corporation that has the power to exercise the right of eminent domain.

(2) “Owner” or “owner of the property” means the owner of property.

(3) “Person” means person as defined by ORS 174.100 and also includes the state, any city, county, school district, municipal or