

35.385 to 35.415, designate a person to exercise such right of repurchase. Such designation shall constitute an assignment of the right of the owner of such property to exercise the right of repurchase otherwise available under ORS 35.385 to 35.415. The name and address of the person so designated shall be included in such agreement or judgment. Such owners and designated beneficiaries shall also notify the condemner in writing of any change of address so that their respective current addresses shall be of record with the condemner. The person so designated may not assign or transfer the right of repurchase.

(2) If an owner of real property to be acquired by a condemner does not designate a person to exercise the right of repurchase under ORS 35.385 to 35.415 and such owner has not waived such right of repurchase, only the owner may exercise the right of repurchase under ORS 35.385 to 35.415. If such owner dies while real property is still subject to a right of repurchase by the owner, the personal representative of such owner's estate may act as the owner to exercise the right of repurchase with respect to such property on behalf of the estate of the owner at any time prior to the discharge of the personal representative under ORS 116.213.

(3) Upon receipt from a condemner of an offer to repurchase any real property or portion thereof in accordance with ORS 35.385 to 35.415:

(a) In the case of an offer to repurchase the entire parcel of real property to which ORS 35.385 applies, if the owner or beneficiary of such right of repurchase does not accept such offer within 30 days, the right of repurchase is terminated and the condemner may use and dispose of such property or portion as otherwise provided by law.

(b) In the case of an offer to repurchase only a portion of a parcel of real property to which ORS 35.385 applies, the owner or beneficiary of such right of repurchase may:

(A) Accept such offer within 30 days; or

(B) Notify the condemner within 30 days of the desire of the owner or beneficiary to exercise such right, but refuse to accept the price established by the condemner in the offer to repurchase made pursuant to ORS 35.390 (4).

(c) If the owner or beneficiary of the right of repurchase fails to timely notify the condemner pursuant to either paragraph (b)(A) or (B) of this subsection, the right of repurchase is terminated and the condemner may use or dispose of such portion of property as otherwise provided by law.

(d) If timely notice of intent to exercise the right of repurchase is given by the owner

or beneficiary as provided by paragraph (b)(B) of this subsection, the owner or beneficiary must within 60 days thereafter commence an action, in the court in which the original action by the condemner to acquire such real property was commenced, to determine the sole issue of the price to be paid upon such repurchase, pursuant to the provisions of ORS 35.390 (3). Failure to commence such an action within such 60-day period shall void such notice of intention to exercise repurchase for the purposes of paragraph (c) of this subsection.

(A) Upon the determination of the price for repurchase by the court or jury, the court shall give judgment vesting title to the property in the owner or the beneficiary, conditioned upon payment into court of the assessed price by the owner or beneficiary within 90 days after the date of the judgment; and upon the making of such payment, the judgment shall become effective to convey the property and the right of possession thereof to the owner or beneficiary. Failure to make such payment into court within 90 days of the date of the judgment shall void the notice of intent to exercise the right of repurchase for the purposes of paragraph (c) of this subsection, and the judgment shall be withdrawn by the court.

(B) If the price determined pursuant to the provisions of this paragraph is less than the price established by the condemner in its written offer to repurchase, the costs and disbursements of the owner or beneficiary, as specified in ORS 35.335 and 35.346, shall be taxed by the clerk; and the judgment rendered shall reflect such costs and disbursements only as an offset against the price to be paid into court by the owner or beneficiary. [1973 c.720 §5]

35.405 Designation of person to exercise right of repurchase by multiple owners. Notwithstanding any other provision of ORS 35.385 to 35.415, in any instance in which ORS 35.385 applies, where the agreement by which the condemner acquired the property is executed by more than one person exclusive of the condemner, or where the judgment given in a condemnation action by which the condemner acquired the property includes more than one named defendant, all such persons executing such agreement, or all such named defendants must designate one person to act as beneficiary in the exercise of the right of repurchase, unless all such persons executing such agreement, or all such named defendants, waive such right of repurchase as provided in ORS 35.385 to 35.415. Such designated beneficiary thereafter shall exclusively have and exclusively may exercise all rights, remedies and obligations provided in ORS 35.385 to 35.415. [1973 c.720 §6]