Chapter 281

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CONDEMNATION GENERALLY

281.010 Entry on, survey and selection of property to be appropriated by state, county or public corporation; mode of proceeding; deposit of compensation. Whenever the law authorizes private real property to be appropriated to public uses, the property may be entered upon, examined, surveyed and selected, in the mode prescribed by the statute giving such authority. Thereafter, the state, county or other municipal or public corporation, seeking and authorized to make such appropriation, may proceed as prescribed in ORS chapter 35 to have such property condemned and the compensation therefor determined and paid, and not otherwise unless otherwise provided by law. The compensation in the case of such condemnation by the state, county, municipal or public corporation shall be paid by the deposit in court of an order duly drawn upon the treasurer thereof for the amount of such compensation.

RELOCATION PAYMENTS

281.045 Definitions. (1) "Displaced person" means any person who moves, or is required to move the person's residence and personal property incident thereto, or the person's business or farm operation as a result of:

(a) Acquisition of the real property, in whole or in part, by a public entity; or

(b) Receipt of a written order by such person from a public entity to vacate the property for public use.

(2) "Person" means any individual, partnership, corporation or association.

(3) "Public entity" includes the state, a county, a city, a consolidated city-county as defined in ORS 199.705 (1), a district, public authority, public agency and any other political subdivision or public corporation in the state when acquiring real property or any interest therein for public use. "Public entity" also includes a private corporation which has the power to exercise the right of eminent domain.

(4) "Public use" means a use for which real property may be acquired by a public entity as provided by law.

(5) "Real property" or any interest therein includes tenements and hereditaments, and includes every interest, freehold and chattel, legal and equitable, present and future, vested and contingent, in such tenements and hereditaments. [1975 c.613 §2; 1985 c 664 §14]

281.050 [1969 c.437 §2; repealed by 1975 c 613 §4]

281.055 Relocation within neighborhood; notice prior to move; costs and allowances. (1) A public entity undertaking urban renewal or neighborhood development shall make all reasonable efforts to insure that all displaced persons shall have the option to relocate within their urban renewal or development neighborhood or area and shall not be displaced, except temporarily as required by emergency, until appropriate residential units shall become available to them within their neighborhood or area and within their financial means.

(2) Except as required by emergency, no displaced person shall be required to move from any real property without first having written notice from the public entity at least 90 days prior to the date by which the move is required. In no case shall any displaced person be required to move until the public entity notifies the person in writing of all costs and allowances to which such person may become entitled under federal, state or local law. [1975 c 613 §3]

281.060 Relocation duties of public entity; use of certain federal relocation assistance programs; policies. Whenever any program or project is undertaken by a public entity which program or project will result in the acquisition of real property, notwithstanding any other statute, charter, ordinance, or rule or regulation, the public entity shall:

(1) Provide fair and reasonable relocation payments and assistance to or for displaced persons as provided under sections 202, 203, 204 and 206 of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(2) Provide relocation assistance programs offering to displaced persons and others occupying property immediately adjacent to the real property acquired the services described in section 205 of such federal Act on the conditions prescribed therein;

(3) In acquiring the real property, be guided by the land acquisition policies in section 301 and the provisions of section 302 of such federal Act;

(4) Pay or reimburse property owners for necessary expenses as specified in sections 303 and 304 of such federal Act;

(5) Share costs of providing payments and assistance with the Federal Government in the manner and to the extent required by sections 211 (a) and (b) of such federal Act; and

(6) Appoint such officers, enter into such contracts, utilize federal funds for planning and

providing comparable replacement housing, and take such other actions as may be necessary to comply with the conditions and requirements of such federal Act. [1971 c 142 §2; 1973 c.373 §1; 1975 c.613 §5]

281.070 Business or farm operation required to make state tax returns and records available for audit. To be eligible for the payment authorized by ORS 281.060 to 281.090, a business or farm operation must make its state income tax returns and its financial statements and accounting records available for audit for confidential use to determine the payment authorized. [1971 c 142 §3]

281.080 [1971 c 142 §4; repealed by 1975 c 613 §6 (281 085 enacted in lieu of 281 080)]

281.085 Decision on benefits; hearing; review. Any person who applies for relocation benefits or assistance under ORS 281.060 shall receive the public entity's written decision on the application which shall include the statement of the amount awarded, if any, the statutory basis for the award, and the statement of any finding of fact that the public entity made in arriving at its decision. A person aggrieved by said written decision shall be entitled to a hearing substantially of the character required by ORS 183.415, 183.425, 183.450, 183.460 and 183.470, unless federal, state or local law provides otherwise. Notice required by ORS 183.415 must be served within 180 days of the receipt of the written decision by the aggrieved party. The decision of the public entity shall be reviewable pursuant to ORS 183.480. [1975 c.613 §7 (enacted in lieu of 281 080)]

281.090 Construction. Nothing in ORS 281.060 to 281.090 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to May 7, 1971. [1971 c 142 §5]

281.100 [1971 c.142 §6, repealed by 1975 c.613 §10]

281.105 Federal law controlling. In any instance where a public entity is receiving federal financial assistance and is thereby required to comply with applicable federal laws and regulations relating to relocation assistance, such federal laws and regulations shall control should there be any conflict with ORS 281.045 to 281.060, 281.085 and this section. [1975 c 613 §9]

CONDEMNATION BY STATE

281.210 Definitions for ORS 281.210 to 281.260. As used in ORS 281.210 to 281.260:

(1) "Property" means real property, water, watercourses, and water and riparian rights, or any right or interest therein.

(2) "Board" means:

(a) The state board of commissioners, trustees, or other state board, having direction of the state department or institution for which the property is desired; or

(b) The Division of State Lands, if there is no other state board for the department or institution for which the property is sought to be acquired.

281.220 Determination of necessity; suit by Attorney General. Whenever the state requires property for any public use, the necessity for the acquisition to be decided and declared in the first instance by the board, if the board and the owner of such property cannot agree upon the price to be paid for the amount of or interest in the property required for such public use, and the damages for the taking thereof, the board may request the Attorney General to, and the Attorney General shall when so requested, commence and prosecute in any court of competent jurisdiction in the name of the State of Oregon any necessary or appropriate suit, action or proceeding for the condemnation of the amount of or interest in the property required for such purposes and for the assessment of the damages for the taking thereof.

281.230 Action by district attorney. The district attorney of the judicial district in which the property to be condemned lies shall:

(1) Commence and prosecute the suit, action or proceeding in the circuit court of such district, when requested by the board; or

(2) Aid the Attorney General in so doing in any manner requested by the Attorney General.

281.240 Procedure for condemnation. The procedure in the suit, action or proceeding referred to in ORS 281.220 or 281.230 shall be, as far as applicable, the procedure prescribed by law for the condemnation of lands or rights of way by public corporations or quasi-public corporations for public use or for corporate purposes.

281.250 Payment of expenses of proceeding, value and damages. The expenses of the condemnation proceeding, the value of the property, and the damages for the taking thereof, shall be paid out of the funds provided for the department or institution for which the property is acquired in the same manner as other expenses for like purposes of such department or institution are paid. If no funds have been provided out of which the same can be paid, payment shall be made out of any funds in the treasury not otherwise appropriated, and the Executive Department is authorized to draw a warrant on the treasurer therefor. [Amended by 1983 c.740 §80]

281.260 Compensation prior to condemning and taking possession. ORS 281.210 to 281.250 do not require the state to make or tender compensation prior to condemning and taking possession of the lands or property.

281.310 [Repealed by 1981 c.153 §79]

281.320 [Repealed by 1981 c.153 §79]

281.330 [Repealed by 1981 c 153 §79]

281.340 [Repealed by 1981 c 153 §79]

281.350 [Repealed by 1981 c 153 §79]

281.360 [Repealed by 1981 c.153 §79]

281.370 [Repealed by 1981 c.153 §79]

281.380 [Repealed by 1981 c 153 §79]

CONDEMNATION OF PROPERTY ADJOINING PROPOSED BOUNDARIES OF ROADS, STREETS OR HIGHWAYS

281.505 "Municipal corporation" defined. As used in ORS 281.510 to 281.550, "municipal corporation" includes any county, city, port or other public or quasi-public corporation. [1983 c 260 §2]

281.510 Purchase or condemnation authorized. (1) Every municipal corporation having the right to purchase, acquire, enter upon and appropriate land and property for establishing, laying out, widening, enlarging or extending roads, streets or highways, may purchase, acquire, enter upon and appropriate, in or in connection with establishing, laying out, widening, enlarging or extending roads, streets or highways, land and property immediately adjoining the proposed boundaries of such roads, streets or highways.

(2) The authority conferred by subsection (1) of this section does not extend to the purchase, acquisition, entering upon or appropriation of any adjoining land or property situate more than 100 feet distant from or beyond the proposed boundaries of any such road, street or highway, or of any such adjoining land or property which constitutes the whole or any part of a platted lot or tract of rectangular shape and having an area of 5,000 square feet or more and its shorter dimension not less than 50 feet in length, or which constitutes the whole or any part of any tract of land in common ownership of like shape and having like minimum area and dimensions.

281.520 Resolution of intention; determination of necessity. Before the right to purchase, acquire, enter upon and appropriate any adjoining land or property under ORS 281.510 is exercised by any municipal corporation, the municipal authorities thereof shall by appropriate ordinance or resolution, describe the land to be purchased, acquired, entered upon or appropriated, and shall further determine that the appropriation of such land is reasonably necessary to protect the full use and enjoyment by the public of the road, street or highway.

281.530 Restrictions on use and occupation of property; sale subject to restrictions; application of proceeds. After an appropriation of land and property authorized by ORS 281.510 has been made, the land and property so appropriated adjoining the boundaries of any road, street or highway and not actually occupied by the road, street or highway, may, by appropriate ordinance or resolution, be declared subject to and burdened with the restrictions upon the future use and occupation thereof that are considered necessary for protecting the full use and enjoyment by the public of the road, street or highway. Such land and property may thereafter be sold by the municipal corporation subject to the declared restrictions and the proceeds of the sale applied and accounted for as may be provided by the charter, charter ordinances or ordinances of, or law governing the municipal corporation. The deed or other conveyance of such land and property shall contain the restrictions and all such land and property shall be sold, burdened with and subject to the restrictions.

281.540 Acquisition of land adjoining road boundaries declared necessary. The purchase, acquisition, entering upon and appropriation of lands and property immediately adjoining the boundaries of roads, streets or highways, as defined and limited in, and to the extent authorized by, ORS 281.505 to 281.550 is declared to be necessary for the development and welfare of the state and its inhabitants and to be a public use.

281.550 Proceedings in case of disagreement as to compensation and damages. If private property is appropriated for the public use, as authorized by ORS 281.510, and the compensation and damages arising from the appropriation cannot be agreed upon, the appropriation shall be made and the compensation and damages shall be considered, ascertained, determined, awarded and paid in the manner provided by the general laws of the state relative to condemnation, or by such means as may be prescribed by the charter, charter ordinances or ordinances of, or law governing such municipal corporation for establishing, laying out, widening, enlarging or extending streets or for acquir-

ing private property for park purposes, at the option of the municipal authorities thereof.