ACQUISITION OF PROPERTY FOR PUBLIC HIGHWAYS

Act 295 of 1966

AN ACT to provide for the purchase and condemnation of property for public purposes by cities, villages, townships, drainage districts, counties, boards of county road commissions, and the state highway commission.

History: 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967 ;-- Am. 1971, Act 220, Imd. Eff. Dec. 30, 1971 ;-- Am. 1978, Act 188, Imd. Eff. June 4, 1978

The People of the State of Michigan enact:

213.361 Securing fee simple or lesser estate in real property and other property; conditions.

Sec. 1.

Cities, villages, townships, drainage districts, counties, boards of county road commissioners, and the state highway commission, referred to in this act as the petitioner, are authorized and empowered to secure the fee simple or lesser estate in real property and other property from the owners under the following conditions:

(a) Property for the right of way for limited access highways and other highways to be laid out, altered, or widened, or for changing the direction or line of those highways.

(b) Gravel, rock, sand, dirt, and all other materials that may be needed for the proper construction, improvement, or maintenance of a highway.

(c) Property the petitioner determines is necessary to give persons using a highway a clear view of approaching persons and vehicles, cars, trains, and other instruments of travel at an intersection of a highway with another highway or with a railroad track.

(d) Property the petitioner determines is necessary to change the channel of a watercourse, natural or artificial, in order to maintain a proper alignment of a highway without crossing the watercourse and the riparian rights of a person, firm, or corporation in or pertaining to the watercourse.

(e) Property abutting on a highway right of way that the petitioner determines is necessary for the storage of road machinery, equipment, or materials.

(f) Property the petitioner determines is necessary for the location, development, and construction of offstreet parking places for vehicles, or to facilitate the flow of traffic on sections of the highways forming bypasses around and connections into and through municipalities and metropolitan areas, upon which sections parking is permanently prohibited.

(g) Property the petitioner determines is necessary for the construction, adjacent to the highways, of flight strips for the landing and takeoff of aircraft or for clear zones or aviation easements in connection with those flight strips, or a combination, in order to insure greater safety for traffic. For the purpose of uniformity, the size, location, layout, lighting, and markings of the flight strips shall be in conformity with rules to be prescribed by the board or commission.

(h) All other property and property rights the board or commission having jurisdiction over a highway determines to be necessary for the proper construction, improvement, landscaping, or maintenance of the highway including the development, construction, and maintenance, adjacent to those highways, of roadside parks, parking spaces, rest areas, scenic areas, scenic lookouts, information lodges, and other purpose authorized by law in the interest of the beneficial use of the highways by the traveling public.

(i) Nonresidential property cities and villages determine to be necessary for redevelopment or rehabilitation projects as authorized by Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws. Nonresidential property means property either zoned or used as commercial, industrial, or professional property.

(j) Property the petitioner determines is necessary for the location, development, and construction of a county water supply system, solid waste disposal system, or county sewage disposal system as authorized by Act No. 185 of the Public Acts of 1957, as amended, being sections 123.731 to 123.786 of the Michigan Compiled Laws or by Act No. 342 of the Public Acts of 1939, as amended, being sections 46.171 to 46.188 of the Michigan Compiled Laws.

(k) Property the petitioner determines is necessary for the location, establishment, construction, improvement, or relief of a drain as authorized by Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.630 of the Michigan Compiled Laws.

History: 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967 ;-- Am. 1971, Act 220, Imd. Eff. Dec. 30, 1971 ;-- Am. 1978, Act 188, Imd. Eff. June 4, 1978

213.362 Property in city or village; designation and consent prior to acquisition for street or highway.

Sec. 2.

Before any proceedings are taken under this act by boards of county road commissioners or the state highway commission involving the taking of property or property rights in a city or village for the changing, altering, opening or widening of a street or highway, the street or highway shall be taken over as a county road or designated as a state trunk line or federal aid highway, and the consent of the village or city council by resolution so to take over or designate the street or highway as a county road or state trunk line or federal aid highway shall be first obtained.

History: 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1969, Act 154, Imd. Eff. July 31, 1969

213.363 Name in which property taken; acquisition by and execution of appropriation instrument; fluid mineral and gas rights; recordation of instruments.

Sec. 3.

Property for county roads shall be secured by the board of county road commissioners and shall be taken in the name of the board. Property for trunk line highway purposes shall be secured by the state highway commission and shall be taken in the name of the state or commission. Property secured by a city or village shall be taken in the name of the city or village. Property secured by a county shall be taken in the name of the county. Property secured by a township shall be taken in the name of the township. Property secured by a drainage district shall be taken in the name of the drainage district. Property not acquired by condemnation shall be acquired by appropriation instrument duly executed by the owner or owners of the lands and acknowledged and witnessed in the manner provided by law for the acknowledging and witnessing of deeds. Fluid mineral and gas rights shall be considered excluded from those instruments unless specifically included. The exercise of fluid mineral and gas rights, as permitted by law, shall not interfere with the use of the property for highway purposes, including limited access highway purposes. The instruments shall be recorded in the office of the register of deeds of the county in which the land is situated.

History: 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967 ;-- Am. 1971, Act 220, Imd. Eff. Dec. 30, 1971 ;-- Am. 1978, Act 188, Imd. Eff. June 4, 1978

213.364 Property; payments; source, warrants.

Sec. 4.

Property acquired shall be paid for by the petitioner out of any funds under its control and available for that purpose. Any payment or deposit of money under this act may be made in the form of a warrant drawn on the city, village, county or state treasury.

History: 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967

213.365 Property; adjacent land, cemeteries, exchanges, parcels of property.

Sec. 5.

This act extends to and includes:

(a) The right to acquire and take property adjacent to that required for public purposes for the purpose of exchanging it for property required or of replatting or rearranging the property abutting on the public improvement after the taking so as to conform with the plan or arrangement in effect before the taking.

(b) The right to acquire and take property and property rights held, reserved, owned, used or occupied by any cemetery association, or by any person, firm, society, association or corporation for cemetery purposes.

(c) The right to acquire and take property which is to be exchanged for public property needed for highway purposes pursuant to an agreement in writing with the owner or owners of such public property for such exchange.

(d) The right and duty to acquire and take the fee to a whole of a particular parcel of land whenever the acquisition of the portion thereof actually needed would destroy the practical value or utility of the remainder of such parcel. The question as to whether or not the practical value or utility of the remainder is in fact destroyed shall be determined by the court or jury and incorporated in its verdict.

History: 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967

213.366-213.390 Repealed. 1980, Act 87, Eff. Apr. 1, 1983.

Compiler's Notes: The repealed sections pertained to petitions for acquisition of property, claims of fraud or abuse of discretion, surrender of possession of property, appointment of guardian ad litem, hearings, juries, evidence, notice, and compensation.

213.391 Effect on other condemnation acts.

Sec. 31.

This act does not directly or by implication repeal or amend any other condemnation act or part thereof.

History: 1966, Act 295, Imd. Eff. July 14, 1966