

LAWS OF DELAWARE
VOLUME 83
CHAPTER 470
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 418

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO RIGHT OF WAY PLANS, NOTIFICATION OF PROPERTY DISPOSAL AND REPORTING DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 137, Title 17 of the Delaware Code by making deletions as shown by strike through and additions as shown by underline as follows:

§ 137. Acquisition and sale of real property.

(a) (1) The Department, in the name of the State, is authorized by law to acquire property and property rights, including rights to access, air, view, and light, for the purposes set forth in this section and within its jurisdiction. The Department may only acquire private or public property and property rights needed for the purposes listed in paragraph (a)(1)a. of this subsection and through the means listed in paragraph (a)(1)b. of this subsection. ~~to provide public thoroughfares such as pathways, roads, streets, highways, or to preserve the traffic capacity in existing thoroughfares in accordance with § 145(d) of this title, sidewalks, bus shelters, parking areas in support of public transit, maintenance yards and similar public transportation related facilities, including rights to access, air, view, and light by gift, devise, purchase, or in the exercise of the power of eminent domain, acquire the same by condemnation by proceeding in the manner prescribed in Chapter 61 of Title 10, be authorized by law to acquire such property or property rights for the purposes set forth in this section and within its jurisdiction.~~ Property rights so acquired shall must be in fee simple absolute or such lesser interest as the Department may deem appropriate. Except as provided in paragraph (a)(2) of this section, no acquisition of real property or property rights shall may be made without Department approved final right-of-way plans by parcel depicting the proposed acquisitions and that approval coming only after the project has been developed and plans prepared in accordance with all applicable governing laws, rules and regulations pertaining to the development of transportation projects.

a. The Department, in the name of the State, may only acquire private or public property and property rights needed for the following purposes:

1. To provide public thoroughfares such as pathways, roads, streets, or highways.

2. To preserve the traffic capacity in existing thoroughfares in accordance with § 145(d) of this title.

3. For sidewalks, bus shelters, parking areas in support of public transit, maintenance yards, and similar public transportation related facilities.

b. The Department, in the name of the State, may acquire private or public property rights through any of the following means:

1. By gift.

2. By devise.

3. By purchase.

4. By the exercise of the power of eminent domain where the private or public property and property rights may be acquired by condemnation by proceeding in the manner prescribed in Chapter 61 of Title 10.

5. Be authorized by law to acquire such property or property rights for the purposes set forth in this section and within its jurisdiction.

(b) When any property heretofore or hereafter acquired by the Department by gift, devise, purchase or condemnation is no longer needed for transportation purposes the Department shall attempt to dispose of the property as follows:

(4) Notwithstanding any other provisions of this section, the Department may determine that the property has minimal independent utility for reasons such as, but not limited to, lack of access, irregular shape, poor topography or hydrology, small size and nominal value (less than \$3,000 in the opinion of the Department's Chief Review Appraiser). In such event the Department may, without having to perform an appraisal of the property, sell or otherwise convey such property to an adjoining property owner or an organized community civic association or maintenance association for use as community open space at a price to be negotiated by the parties. The Department shall notify all adjoining property owners in writing of the property availability and provide two weeks for adjoining property owners to express interest in purchasing the property. In cases where more than 1 adjoining property owner indicates an interest in purchasing the property, the

Department may elect to offer the property for sale via sealed bid to the highest bidder, or to divide the property to accommodate the interests of all interested owners.

(11) The Department shall provide to the Governor and the General Assembly on or before ~~March 31~~ December 31 of each year, a report identifying by size and location all properties being held for projects, properties deemed surplus or excess properties, dates of acquisition, purchase price, previous owner, date the property was determined to be excess ~~and/or~~ or surplus, dates and nature of actions undertaken to dispose of such ~~surplus/excess properties~~ surplus or excess properties, and approximate fair market value of each. If properties are deemed nonmarketable they ~~shall~~ must be identified as such. The report ~~shall~~ must further identify all properties disposed of during the previous year by size and location, date of disposition, appraised value if appraised, amount received from disposition and name of the purchaser, purchasers or owners, ~~including,~~ but not limited to, including equitable owners.

Approved October 14, 2022