

AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," further providing for powers and duties of the Secretary of Transportation as to real property.

The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows:

Section 1. The first paragraph of clause (15) of subsection (a) of section 2002, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," amended December 3, 1970 (P.L.834, No.275), is amended to read:

Section 2002. Powers and Duties of the Department.--(a) The Department of Transportation in accord with appropriations made by the General Assembly, and grants of funds from Federal, State, regional, local or private agencies, shall have the power, and its duty shall be:

* * *

(15) To consult with appropriate officials as designated by the chief administrative officer of the Department of Agriculture, the Department of Environmental Resources, the

1 Department of Community Affairs, the Department of Health, State
2 Planning Board and the Fish Commission regarding the
3 environmental hazards and the agricultural, conservation,
4 sanitary, recreation and social considerations that may arise by
5 reason of the location, design, construction or reconstruction
6 of any transportation or air facility.

7 * * *

8 Section 2. Clause (e) of section 2003 of the act is amended
9 to read:

10 Section 2003. Machinery, Equipment, Lands and Buildings.--
11 The Department of Transportation in accord with appropriations
12 made by the General Assembly, and grants of funds from Federal,
13 State, regional, local or private agencies, shall have the
14 power, and its duty shall be:

15 * * *

16 (e) [With the approval of the Governor and of the Department
17 of Property and Supplies to purchase or otherwise] To acquire,
18 by gift, purchase, condemnation or otherwise, land in fee simple
19 or such lesser estate or interest as it shall determine, in the
20 name of the Commonwealth, for [the purpose of erecting thereon
21 garages, storage sheds, or other buildings necessary in
22 connection with the construction or maintenance of highways] all
23 transportation purposes, including marking, rebuilding,
24 relocating, widening, reconstructing, repairing and maintaining
25 State designated highways and other transportation facilities,
26 and to erect on the land thus acquired such structures and
27 facilities, including garages, storage sheds or other buildings,
28 as shall be required for transportation purposes.
29 Notwithstanding any other provision of this or any other act,
30 when the department seeks to take by appropriation real property

or an interest in real property which the department intends to use for other than operating right-of-way for facilities such as maintenance buildings and construction facilities and such real property or interest therein belongs to a railroad, the department shall show by clear and convincing evidence that the activity contemplated on the site proposed to be appropriated could not have been conducted economically at an alternate location:

(1) In addition to land required for highways and other transportation facilities, the department may acquire:

(i) landlocked parcels and other remainders except that remainders may be condemned only if department appraisals indicate that no substantial savings can be effected by acquiring only the land required for right-of-way purposes;

(ii) land abutting a highway or other transportation facility if the secretary determines that such land has been or is likely to be adversely affected by reason of its proximity to such highway or other transportation facility, or is required for the purpose of mitigating adverse effects on other land adversely affected by its proximity to such highway or other transportation facility;

(iii) the fee underlying any easement previously acquired by the department; and

(iv) provided, that if the land is acquired for transportation purposes other than highways, the prohibition contained in section 2001.2 shall apply.

(2) The secretary shall pay real estate taxes to the county, municipality and school district on excess remainders, landlocked parcels and any other land or improvements located outside of the right-of-way until such land shall be used for

1 highway or other transportation purposes, or conveyed.

2 (3) In order to acquire land under this subsection, a
3 description or plan thereof shall be prepared, containing the
4 names of the owners or reputed owners, an indication of the
5 estate or interest to be acquired and such other information as
6 the department shall deem necessary. Execution by the secretary
7 of such description or plan shall constitute authority for the
8 filing of a declaration of taking in accordance with the act of
9 June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the "Eminent
10 Domain Code." The description or plan shall be filed as a public
11 record in the department.

12 (4) Any other provisions of this act to the contrary
13 notwithstanding, the department may sell at public sale any land
14 acquired by the department if the secretary determines that the
15 land is not needed for present or future transportation
16 purposes:

17 (i) Land determined by the secretary to not be needed for
18 present or future transportation purposes shall within one year
19 of such determination first be offered to the person from whom
20 it was acquired at the same price paid to such person by the
21 department, less costs, expenses and reasonable attorney's fees
22 incurred by such person as a result of the acquisition of the
23 land by the Commonwealth. However, where the department acquired
24 only a portion of the contiguous land of such person, the
25 aforesaid right of first refusal shall extend only to land
26 abutting other land to which such person has retained title. The
27 person from whom the land was acquired shall be served with
28 notice of the offer by registered or certified mail and shall
29 have 120 days after receipt of such notice to make written
30 acceptance thereof.

1 (ii) Revenue from any sale of land acquired with motor
2 license funds shall be deposited in the Motor License Fund.

3 (5) The secretary shall have the power to promulgate such
4 rules and regulations as he deems necessary to carry out the
5 provisions of this subsection.

6 * * *

7 Section 3. It is the legislative intent to establish the
8 authority and procedure for the acquisition of land for all
9 State designated highways and other transportation facilities
10 and for the disposition thereof. The provisions of section 210
11 of the act of June 1, 1945 (P.L.1242, No.428), known as the
12 "State Highway Law," and of section 8 of the act of May 29, 1945
13 (P.L.1108, No.402), entitled "An act authorizing the
14 establishment, construction and maintenance of limited access
15 highways and local service highways; and providing for closing
16 certain highways; providing for the taking of private property
17 and for the payment of damages therefor; providing for sharing
18 the costs involved and for the control of traffic thereover;
19 providing penalties, and making an appropriation," are
20 superseded insofar as they may be inconsistent with this act;
21 and Article III of the "State Highway Law" is repealed
22 absolutely.

23 Section 4. This act shall not authorize condemnation of land
24 for the opening of any street, lane, alley or public road
25 through any land used as a burial ground or for cemetery
26 purposes or through any land already acquired and intended to be
27 used for a burial ground or for cemetery purposes, nor shall
28 anything herein contained be construed to alter or repeal the
29 requirements of subsection (d) of section 2, act of May 29, 1945
30 (P.L.1108, No.402), referred to as the Limited Access Highway

1 Law.

2 Section 5. This act shall take effect immediately.

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