

UTILITY RIGHTS OF WAY OVER HIGHWAYS MAY BE RELOCATED

Act of Apr. 7, 1933, P.L. 27, No. 21

CL. 36

AN ACT

To authorize the Department of Highways and the county commissioners to occupy and relocate rights of way of public service companies in certain cases, and to acquire by purchase or condemnation the necessary land therefor.

Compiler's Note: Section 1101(48) of Act 428 of 1945 provided that Act 21 is repealed insofar as it applies to State highways.

Section 1. Be it enacted, &c., That whenever in the construction, widening or relocation of any State or county road, highway, bridge or tunnel, or of any part thereof, it becomes necessary, in the opinion of the Secretary of Highways or of the county commissioners, to occupy the whole or any part of the right of way of any public service company, the State Department of Highways or the county commissioners, as the case may be, may enter upon and occupy the whole or any part of such right of way for the purpose of such road, highway, bridge or tunnel, or part thereof: Provided, That before such right of way, or any part thereof, is so occupied in the case of State highways, either the Department of Highways or the county, accordingly as the one or the other may be responsible for property damages under the provisions of present or future laws governing the payment of damages for property condemned for highway purposes, or in the case of county highways, the county commissioners shall, at the expense of the State or county, provide a substitute right of way on another and favorable location. Such public service company shall thereupon provide for the transfer to or reconstruction upon, in, under or above said substitute right of way of any structures and facilities of said public service company located upon, in, under or above said original right of way at the time the same is so occupied. The Department of Highways acting on behalf of the Commonwealth or the county, as the case may be, is hereby authorized to enter into agreements with such public service company to contribute toward the expense of such transfer or reconstruction, and in the event that they are unable to agree on the amount to be paid, the matter shall be referred to the Pennsylvania Public Utility Commission, which shall, after hearing thereon, make a finding of the amount to be paid to such public service company by the State or county. In case of the failure of such public service company, within a reasonable time after notice so to do, to remove its facilities to such substitute right of way, the said Pennsylvania Public Utility Commission shall have jurisdiction, on petition of either the Department of Highways or the county, to order such transfer or reconstruction. The Department of Highways or the county commissioners of any county are hereby authorized to acquire, by purchase or by the exercise of the right of eminent domain, in the same manner that property is now taken and condemned for highway and road purposes, any

necessary land or right of way for the relocation of any such public service right of way and facilities: Provided, however, That the right of way of a railroad company shall not be acquired or occupied under this act without the consent of the company owning or operating or in possession of said railroad.

(1 amended June 21, 1937, P.L.1958, No.383 and repealed in part June 3, 1971, P.L.118, No.6)

Section 2. The authority given by this act to the Secretary of Highways and the county commissioners shall be in addition to, and not in derogation of, any powers possessed by them under the provisions of other laws.

(2 amended June 21, 1935, P.L.387, No.172)