ACQUIRING PROPERTY FOR HIGHWAY PURPOSES

Act 352 of 1925

AN ACT to provide for the purchase and condemnation of private property for public highway purposes.

History: 1925, Act 352, Imd. Eff. May 27, 1925

The People of the State of Michigan enact:

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213.171 Property; acquisition by county road or state highway commissioners; approval of required officials.

Sec. 1.

Boards of county road commissioners, with the approval of the board of supervisors, and the state highway commissioner are hereby authorized and empowered to secure from the owners thereof:

(a) Property for the right of way for any highway to be laid out, altered, or widened, or for changing the line thereof;

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

(c) Property deemed by the board or commissioner to be necessary to give to persons using a highway a clear view of approaching persons and vehicles, cars, trains and other instruments of travel, at any intersection of a highway with another highway or with a railroad track;

(d) Property deemed by the board or commissioner to be necessary to change the channel of any water course, natural or artificial, in order to maintain a proper alignment of any highway without crossing such water course and the riparian rights of any person, firm or corporation in or pertaining to any such water course;

(e) The fee or any lesser estate in land abutting on any highway right of way and deemed by the board or commissioner to be necessary for the storage of road machinery, equipment or materials;

(f) Property deemed by the board or commissioner to be necessary for the location, development and construction of off-street parking places for vehicles, to facilitate the flow of traffic on sections of the highways forming by-passes around and connections into and through municipalities and metropolitan areas, upon which sections parking is permanently prohibited;

(g) Property deemed by the board or commissioner to be necessary for the construction, adjacent to the highways, of flight strips for the landing and take off of aircraft in order to insure greater safety for traffic. For the purpose of uniformity the size, location, layout, lighting and markings of such flight strips shall be in conformity with rules and regulations to be prescribed by the commissioner;

(h) Any and all other property and property rights deemed by the board or commissioner having jurisdiction over a highway to be necessary for the proper construction, improvement, landscaping, or maintenance thereof, including the development, construction and maintenance, adjacent to such highways, of roadside springs, parking spaces, and information lodges, in the interest of the beneficial use of such highways by the traveling public;

(i) The state highway commissioner and boards of county road commissioners are authorized and empowered to take property and property rights under the provisions of this act within the limits of any incorporated city or village in this state: Provided, however, That before any proceedings are taken under this act involving the taking of any property or property rights in any city or village for the changing, altering, opening or widening of any street or highway, said street or highway shall be taken over as county road or designated as a state trunk line or federal aid highway, as the case may be, and the consent of the village or city council by resolution so to take over or designate said street or highway as a county road or state trunk line or federal aid highway shall be first obtained.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3884 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- Am. 1942, 2nd Ex. Sess., Act 21, Imd. Eff. Mar. 2, 1942 ;-- CL 1948, 213.171

213.172 Property for county and trunk line; conveyances, name, fluid mineral and gas rights, recording.

Sec. 2.

Property for a county road shall be secured by the board of county road commissioners and shall be taken in the name of the county. Property for trunk line highway purposes shall be secured by the state highway commissioner and shall be taken in the name of the state, excepting that excess property taken for highway purposes shall be taken in the name of the state highway commissioner. All such property shall be acquired by a release or other appropriate conveyance 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: Provided, That fluid mineral and gas rights shall be deemed excluded from such release or conveyance unless specifically included therein. The exercise of such fluid mineral and gas rights, as permitted by law, shall not interfere with the use of such property. All such releases and conveyances shall be recorded in the office of the register of deeds of the county in which the land is situated.

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History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3885 ;-- Am. 1935, Act 258, Eff. Sept. 21, 1935 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.172 ;-- Am. 1962, Act 22, Eff. Mar. 28, 1963

213.173 Payment of purchase price for property.

Sec. 3.

Property for highway purposes shall be paid for by the board or commissioner out of any funds under their control, available for that purpose. Any payment or tender of money under this act may be made in the form of a warrant drawn on the county or state treasury as the case may be.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3886 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.173

213.174 Determination of necessity by board or commissioner; hearing.

Sec. 4.

Whenever the board or commissioner shall be unable to agree with any person interested in any such property for the purchase thereof, or whenever such person shall be unknown or a non-resident of the county, or a minor or an insane or incompetent person, the board or commissioner may make a written determination of the necessity of the particular highway construction, improvement, landscaping or maintenance project for which such property is desired, the necessity for taking the particular property described, and the damages which, in the opinion of the board or the commissioner, should be paid as compensation for the taking of each parcel of such property. Such determination shall also describe the property desired and shall give the name of each person interested therein, so far as known to the commissioner or commissioners making the determination: Provided, That unless such determination shall specifically include fluid mineral and gas rights, such rights shall be deemed excluded therefrom. The exercise of such fluid mineral and gas rights, as permitted by law, shall not interfere with the use of such property. The declaration of the board or commissioner that he or it has made a good faith effort and has been unable to agree with the owner, or owners, for the purchase of such property and his or its determination of the necessity of the project and of taking the particular property described therefor, if received in evidence at the necessity hearing provided in this section, shall not thereafter be questioned: Provided, That no such determination shall be made except after a hearing, of which written notice shall be given of the time and place for such hearing to all persons interested so far as known in the property desired, at least 7 days before the time of hearing, such notice to be served as hereinafter provided in section 29 of this act.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3887 ;-- Am. 1931, Act 216, Eff. Sept. 18, 1931 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.174 ;-- Am. 1962, Act 22, Eff. Mar. 28, 1963

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213.174a Determination of necessity by circuit court commissioner if board or commissioner is disqualified.

Sec. 4a.

In the event the board or commissioner shall for any reason be disqualified to hear and determine the matter of necessity, as provided in this act, such matter of necessity only shall be heard by a circuit court commissioner of the county in which the property sought to be condemned is located or by a circuit court commissioner acting in such county, as provided by law, and in case any disqualification shall be alleged against any board or commissioner before or during such hearing on necessity, such board or commissioner if they deem such allegation well-founded, may call upon a circuit court commissioner, qualified as hereinbefore provided, to hear the matter and make the determination herein prescribed, and on the day set for hearing a continuance for such purpose to a day certain, may be had if necessary. Upon the day fixed by the notice or the day certain set by such continuance, or upon such other date as said matter may be continued to, such circuit court commissioner shall hear the issue of necessity involved. Any determination on the matter of necessity made hereunder by a circuit court commissioner shall have the same force and effect and shall be filed with and acted upon by the board or commissioner in the same manner and be subject to all the provisions of this act, as are determinations made by such board or commissioner.

History: Add. 1931, Act 216, Eff. Sept. 18, 1931 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.174a

213.175 Determination of necessity; filing and recording; compensation for property.

Sec. 5.

Such determination may be filed with the county clerk if with reference to a county road, and in the office of the state highway commissioner if with reference to a state trunk line highway, and a certified copy thereof recorded in the office of the register of deeds of the county in which the property is situated. Such register of deeds shall receive such instrument for record only from the highway officials in charge of the matter. Compensation for the taking of the property therein described shall promptly thereafter be paid or tendered to the owner thereof if known and residing in the county in which the land is situated, and if such tender be not accepted or the owner shall be unknown, or a non-resident of the county, by depositing with the county or state treasurer, as the case may be, the amount determined as the damages to be paid as such compensation, the same to be paid to the person or persons entitled thereto upon the execution or delivery of the proper release or releases or subject to the order of the court in case of defaults or an award of damages by court commissioners as hereinafter provided. In case it shall be so determined that the benefits equal or exceed the damage, payment, tender or deposit as aforesaid shall not be necessary, but such fact shall be clearly set forth in the notice required by section 6 hereof.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3888 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.175

213.176 Possession notice; vesting of title; removal of obstructions on property.

Sec. 6.

Upon the filing of such determination and proof of payment, tender or deposit as above provided, the board or commissioner having the matter in charge shall give notice thereof to the owners or occupants of the property therein described, which notice shall be served as provided in section 29 of this act. Said notice shall state that the said board or commissioner is about to take possession of said property for the highway purposes in said determination stated, and in cases where it is determined that benefits equal or exceed damage, such fact shall be clearly set forth in said notice, which may also direct the owners or occupants of such property to remove their fence or fences or other obstructions and encroachments within 10 days thereafter. Upon the filing of such determination and the giving of such notice, the title, and the right of possession to all of the property and property rights described in the determination shall vest in the county or state, as the case may be, for the purpose or purposes therein stated, and in case the owners or occupants thereof shall neglect or refuse to remove their fence, fences and other obstructions and encroachments within 10 days, the board or commissioner shall have the full power, and it shall be their duty to enter upon the premises with such aid and assistance as shall be necessary and remove such fence or fences, obstructions or encroachments without delay: Provided, That no person interested as owner, or otherwise, in any of the property described in such determination, shall be required to vacate any lands or premises or move any dwelling house or other building until after the damages, if any, determined as aforesaid, for the taking of such property have been paid or tendered, and the notices given, in accordance with the provisions of sections 4, 4a, 5 and 6 of this act.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3889 ;-- Am. 1931, Act 216, Eff. Sept. 18, 1931 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.176

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213.177 Petition; circuit court to appoint commissioners to determine damages.

Sec. 7.

Within 90 days after the filing of any such determination of damages, as aforesaid, the board or commissioner having the matter in charge, unless the parties interested in the property therein described having accepted the amount tendered or offered and delivered the proper conveyances, shall file with the circuit court or probate court of the county in which such property is situated a petition, describing the highway improvement for which the property has been taken, reciting that the said board or commissioner has made and filed the determination as hereinabove provided, and that he or it has taken possession of the property therein described for public highway purposes, and that compensation has not been paid to the owners, stating as to each parcel whether the fee of said property, or an easement therein, has been taken, giving the name of each person interested in each such piece or parcel of property, and praying for the appointment of 3 court commissioners to appraise the damages to be paid as compensation for the taking of each such piece or parcel of property for such highway purposes.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3890 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.177

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213.178 Petition; order for hearing, service.

Sec. 8.

Upon the filing of the petition, the court shall make an order fixing a day for the hearing on such petition, which shall not be less than 15 days thereafter. Such order shall recite the names of the persons mentioned in the petition and the descriptions of each piece or parcel of property and shall state the purpose of the petition. A copy of such order shall be served at least 10 days before the day of hearing, upon each person named therein as being interested in the property to be taken, who is a resident of the county in which the property is located, and also upon the person or persons in possession of such property, if other than the owner. Such service may be made as provided in section 29 of this act. Service may also be made upon persons interested in the property who are non-residents of the county.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3891 ;-- Am. 1931, Act 216, Eff. Sept. 18, 1931 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.178

213.179 Petition; service upon guardians; guardian ad litem.

Sec. 9.

In cases where a minor or an insane or incompetent person has an interest in such property, service of a copy of the order shall be made upon the guardian, if any, and if such person has no guardian, the board or commissioner may petition the court for the appointment of a guardian ad litem. Upon the filing of such petition the court shall appoint a guardian ad litem, who shall be a resident of the county and upon whom service of a copy of the said order shall be made.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3892 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.179

213.180 Petition; constructive service; order for appearance.

Sec. 10.

Upon, or at any time after, the filing of such petition, the judge shall make an order for the appearance of any persons interested in the property, or any part thereof on or before the day of hearing therein stated, upon proof by affidavit either:

1. That such person resides out of or is absent from the county, or his whereabouts unknown;

2. That it cannot be ascertained in what county, state or country such person resides.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3893 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.180

213.181 Order for appearance; publication; mailing and service of order.

Sec. 11.

Such order shall be published in some newspaper published and circulated in the county, or in such other paper as the court may direct, at least once in each week for 2 successive weeks immediately preceding the day set for the hearing, and a copy of such order shall be mailed to each absent or non-resident person having a last known postoffice address, by registered mail, and a return receipt demanded. Proof by affidavit shall be made of such mailing, and whether or not a return receipt was received, and if one was received, it shall be attached to said affidavit; but such publication and mailing shall not be necessary in any case in which a copy of such order has been served personally or by registered mail on each such absent or non-resident person.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3894 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.181

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213.182 Order for appearance; proof of publication and service; filing.

Sec. 12.

Proof of publication and service may be made by affidavit of any person having knowledge of the facts. Such proof shall be filed with the court on or before the day of hearing, and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3895 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.182

213.183 Default of persons not appearing; court-appointed commissioners; discontinuance.

Sec. 13.

On the day fixed as aforesaid, the court shall enter the default of all persons interested in the property described who have not appeared, and shall direct the payment to such persons of the sums stated in the determination aforesaid, as compensation for the taking of the pieces or parcels of property in which they are interested; and the court shall also, unless sufficient cause to the contrary be shown, appoint 3 disinterested persons commissioners, herein called

court commissioners, whose duty it shall be to appraise the damages to be paid as compensation for the taking of the property described in the petition, in respect to which an appearance is made, for highway purposes. Said commissioners shall not be residents of the township in which the property sought to be taken is situated. The court shall fix the time and place for the first meeting of such court commissioners, and require their attendance; it may also authorize the court commissioners to adjourn their meeting from time to time not later than to a day to be named, and shall fix the time for filing their report. After the appointment of court commissioners, no discontinuance shall be filed and no order of discontinuance may be entered except upon payment of expenses of the proceeding and reasonable attorney fees of all parties in interest who have appeared in said proceedings, under the order of the court.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3896 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.183

213.184 Commissioners; meetings, adjournments; witnesses.

Sec. 14.

The court commissioners shall meet at the time and place ordered by the court and shall be sworn faithfully to discharge their duties. If all do not then appear, a less number may adjourn to a time certain, but no adjournment shall be made to a day later than the time allowed by the court. All adjournments shall be publicly announced. The court or the clerk thereof may issue writs of subpoena to compel the attendance of witnesses before the court or before the said court commissioners. Either of such court commissioners may administer oaths to witnesses.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3897 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.184

213.185 Commissioners; view of premises; hearing; evidence of ownership.

Sec. 15.

The court commissioners, at the time fixed by the court or at the time fixed by adjournment, shall view the premises described in the petition and shall hear the proofs and allegations of the parties. At such hearing the determination hereinabove provided for, or a certified copy thereof, shall be read in evidence before said court commissioners and shall be prima facie evidence of the ownership of the property therein described.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3898 ;-- CL 1948, 213.185

213.186 Commissioners; appraisal of damages; reports.

Sec. 16.

The court commissioners shall appraise the damages to be paid as compensation for each such piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for said court commissioners to report on all of such property at one time.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3899 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.186

213.187 Commissioners; not necessary to include all parcels of property in same petition.

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Sec. 17.

It shall not be necessary for the board or commissioner to include in one determination the descriptions of all of the property necessary to be taken for any single project, or to include in one petition, the descriptions of all of the property described in the determination upon which such petition is based.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3900 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.187

213.188 Benefits to owners; deduction from damage costs.

Sec. 18.

If any discontinued highway shall be upon lands through which a new highway shall be laid out, the same may be taken into consideration in estimating the damages sustained by the owner of such lands; and in like manner the benefits accruing to owners of lands by reason of laying-out, altering, widening or otherwise improving any highway or of changing the line thereof, shall be taken into consideration in determining the damages to be paid to any such owner as compensation for the taking of any of his property for any such highway purpose. In each such case, the board or commissioner having the matter in charge, or the court commissioners, as the case may be, shall state such fact and the amount deducted on account thereof in the determination, or report, as the case may be: Provided, however, That benefits shall not be taken into consideration as above stated in case there is any assessment levied on the abutting property by reason of the laying out, altering, widening or otherwise improving said highway.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3901 ;-- Am. 1931, Act 216, Eff. Sept. 18, 1931 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.188

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213.189 Orders of court upon determination and in regarding commissioners.

Sec. 19.

The court may, at the time of the filing of the report or at such other time to which it may adjourn the proceedings, on cause shown, set aside the report and refer it back to such court commissioners or appoint other commissioners to re-try the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; it may at any time, in its discretion, remove any or all of said commissioners and fill the vacancy or vacancies thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn such proceedings or any part thereof from time to time, and may make all such orders in the premises as may be just and proper to further and accomplish the purpose thereof.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3902 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.189

213.190 Confirmation of commissioner's report; witness, attorney, damage fees.

Sec. 20.

After the court shall confirm the report of the court commissioners, it shall enter an order authorizing the board or commissioner to pay the several sums awarded for damages, and they shall pay the same accordingly. The court may determine and include in said order an allowance to the person, partnership or corporation from whom property is taken for attorney fees and witness fees as taxed before and determined by the court. Such attorney fees and witness fees shall be paid at the same time and in the same manner as sums awarded for damages in such proceeding: Provided, That it shall not be lawful for the court to make such order allowing witnesses and attorney fees to more than 1 title interest and such lien interests as are adverse thereto and to each other in any single parcel of real estate as set up and described in the determination of necessity on file: And provided further, That in the case of a parcel whose value is under $100.00, no such attorney fee shall exceed $5.00, and in the case of a parcel valued at $100.00 or more, no such attorney fee shall exceed $25.00. Such payment shall be made in money or by an order drawn on the proper county or state treasurer, to the several persons entitled thereto, and if refused, or if there be no person properly authorized to receive the same, or if the person entitled thereto is a non-resident of the county or cannot be found, it shall be deposited as directed by the court.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3903 ;-- Am. 1937, Act 237, Eff. Oct. 29, 1937 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.190

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213.191 Compensation of highway condemnation commissioners; expenses.

Sec. 21.

The court shall fix the compensation of the court commissioners, not to exceed $50.00 per day, and determine the amount of necessary expenses incurred in connection with such proceedings, and the whole cost thereof.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3904 ;-- CL 1948, 213.191 ;-- Am. 1961, Act 172, Eff. Sept. 8, 1961

213.192 Prima facie evidence; certificate, report, or determination.

Sec. 22.

Any certificate, report or determination authorized or required by this chapter, or the record thereof, or a certified copy of any such certificate, report, determination or record, shall be prima facie evidence of the facts recited therein and of the title to the property therein described or referred to in the county or state, as the case may be, and of the right of the board or commissioner to take the same for highway purposes.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3905 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.192

213.193 Right to acquire property of municipalities and cemetery associations; exchange.

Sec. 23.

The provisions of this chapter shall be deemed to extend to and include the right to acquire and take property and property rights held, reserved, owned, used or occupied by any cemetery association or municipality, or by any person, firm, society, association or

corporation for cemetery or municipal purposes; to acquire and take property desired by the board or commissioner to exchange for other property which in his or their opinion it is necessary to acquire for highway purposes, whenever he or they have agreed in writing with the owner or owners of such property for such exchange; and to acquire and take the fee to the whole of a particular lot or parcel of land whenever in the opinion of the board or commissioner it is advisable to provide for the proper construction, improvement or maintenance of highways.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3906 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.193

213.194 Sale of excess land; conveyance; record.

Sec. 24.

Whenever the whole of a lot or parcel of land is, or has been, taken by any board or the commissioner, as provided in the preceding section, such board or commissioner, or his or their successors in office shall have the right, and are hereby authorized, to sell and convey the portion not needed, on whatever terms such board or commissioner may deem proper: Provided, That in those cases where the title to excess lands, acquired by the state highway commissioner under any law of this state, has been taken in the name of the state of Michigan, it shall be lawful for the state highway commissioner, and he is hereby authorized and empowered to sell and convey said lands as if the title thereto had originally been taken in his name as hereinbefore provided: And provided further, A record of all such sales, showing the appraised value, the sale price and other pertinent information, shall be kept in the office of the state highway commissioner.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- CL 1929, 3907 ;-- Am. 1935, Act 258, Eff. Sept. 21, 1935 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.194

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213.195 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's Notes: The repealed section applied the act to pending condemnation proceedings.

213.197 Review by certiorari; procedure; time limitations.

Sec. 27.

Any proceeding taken under the provisions of this act shall be subject to review upon certiorari. The procedure therefor shall be the same as is required in case of certiorari to review judgments rendered by judges of the circuit courts: Provided, That the application for certiorari must be filed within 20 days after the report of the court commissioners shall have been confirmed: And provided further, That the determination of necessity provided in section 4 of this act may be reviewed by certiorari only within 10 days after such determination of necessity and the procedure shall be the same as review of judgments rendered by a justice of the peace, except that such certiorari may be heard by the court during term or at chambers upon 5 days' notice given to the opposing party.

History: 1925, Act 352, Imd. Eff. May 27, 1925 ;-- Am. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3910 ;-- Am. 1941, Act 279, Eff. Jan. 10, 1942 ;-- CL 1948, 213.197

213.198 State highway commissioner or deputy may conduct proceedings.

Sec. 28.

Any act or proceeding herein directed or authorized to be performed or conducted by the state highway commissioner may be done by said state highway commissioner in person, or by 1 of his deputies; or the state highway commissioner may generally or specifically deputize any person to hold or conduct any hearing directed by this act and said deputized person shall report his conclusions and recommendations to the state highway commissioner, who shall then make his determination thereon. Any action by such deputy, or any hearing or other proceeding conducted by him shall be deemed to be for the purpose of this act, and have the same legal force and significance as though personally performed by the said state highway commissioner.

History: Add. 1927, Act 92, Imd. Eff. Apr. 30, 1927 ;-- CL 1929, 3911 ;-- CL 1948, 213.198

213.199 All notices and orders; service.

Sec. 29.

All notices and orders heretofore mentioned in this act, unless otherwise provided, shall be served as follows:

(a) Personally; or

(b) By leaving a copy at the residence of the person or persons interested; or

(c) By mailing a copy thereof by registered mail at the last known post office address of each person or persons, so far as is known, and by publication in some newspaper printed or circulated in the county in which such lands are located at least 7 days prior to the date of hearing; or

(d) Non-residents of the county may be served in any of the above methods or by posting copies thereof in 5 conspicuous places in the township, 1 of which shall be on the property.

History: Add. 1931, Act 216, Eff. Sept. 18, 1931 ;-- CL 1948, 213.199

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