

**ACQUIRING PROPERTY FOR HIGHWAY PURPOSES (EXCERPT)**  
**Act 352 of 1925**

**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