

**§153-B. Property for highways; acquisition**

**1. Acquisition of property.** The Department of Transportation, on behalf of the State, may take over and hold for the State such property as it determines necessary to:

- A. Lay out and establish, construct, improve or maintain, provide a change of location or alignment of or provide drainage for state and state aid highways; [PL 1993, c. 536, §2 (NEW).]
- B. Provide rest areas, parking strips, roadside and landscape development for the preservation and development of natural scenic beauty; [PL 1993, c. 536, §2 (NEW).]
- C. Provide for the health, safety and welfare of the public using a state or state aid highway; [PL 1993, c. 536, §2 (NEW).]
- D. Secure materials, with necessary ways and access, for the construction, improvement and maintenance of state and state aid highways; [PL 1993, c. 536, §2 (NEW).]
- E. Secure the relocation, removal or disposal of automobile graveyards and junkyards not in conformity with Title 30-A, chapter 183, subchapter I; [PL 1993, c. 536, §2 (NEW).]
- F. Erect administrative, storage and operational buildings used in effecting the objectives in conformity with section 1; or [PL 1993, c. 536, §2 (NEW).]
- G. Construct, improve and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of transportation projects. [PL 1993, c. 536, §2 (NEW).]

[PL 1993, c. 536, §2 (NEW).]

**2. Survey and appraisal.** When property is to be purchased or taken over and held for the State, unless the department determines that an adequate description already exists, the department shall first cause the property or interest in the property to be acquired to be surveyed and described, and a plan of the property made, and to be appraised by one or more appraisers. The owner or the owner's designated representative must be given an opportunity to accompany the appraisers during the appraiser's inspection of the property. All persons employed by the department are authorized, to the extent necessary for surveys, appraisals and preliminary engineering, to enter and cross all lands within, adjoining and adjacent to the area proposed for acquisition in carrying out the objectives of this section. The department may prescribe procedures to waive the appraisal in cases involving the acquisition by sale or donation of property or interest in property. The department may prescribe procedures to waive the appraisal in cases in which the fair market value of the property or interest in the property to be taken is estimated at \$15,000 or less and valuation can be established by another method. In any case in which the department and the owner do not reach an agreement about the value of property or interest in property to be acquired, or if the owner requests, the department shall perform an appraisal.

[PL 2001, c. 485, §1 (AMD).]

**3. Entry; soundings, drillings and examinations.** Persons employed by the department may enter upon the property or building with the consent of the owner, for the purpose of making soundings, drillings and examinations as the department determines necessary for the purpose of this subchapter. If the department is unable to obtain consent of the owner, the department is authorized to seek an administrative inspection warrant from the Superior Court for the county in which the property is located for the purpose of making soundings, drillings and examinations. The department shall file an application in Superior Court in the form of a sworn affidavit that must include:

- A. The statutory authority under which the department is authorized to acquire lands by eminent domain; [PL 1993, c. 536, §2 (NEW).]
- B. A description of the property to be examined; [PL 1993, c. 536, §2 (NEW).]

C. A statement that the department has requested permission from the owner of the property to conduct an examination and that permission has been denied; and [PL 1993, c. 536, §2 (NEW).]

D. A statement of the purpose for the entry and examination and the nature and scope of the activities reasonably necessary to accomplish this purpose. [PL 1993, c. 536, §2 (NEW).]  
[PL 1993, c. 536, §2 (NEW).]

**4. Notification to potential buyer.** If an owner decides to sell the property after the owner has been notified by the department that it plans to purchase or take the property, it is the responsibility of the owner to inform the potential buyer that the department intends to purchase or take the property. The department, as early in its property owner notification process as possible, shall remind the property owner of this responsibility.

[PL 1993, c. 536, §2 (NEW).]

#### SECTION HISTORY

PL 1993, c. 536, §2 (NEW). PL 1997, c. 272, §1 (AMD). PL 2001, c. 485, §1 (AMD).

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