

CHAPTER 268

**TRANSPORTATION**

SENATE BILL 96-200

BY SENATORS Blickensderfer, Lacy, Rizzuto, and Weddig;  
also REPRESENTATIVES Owen, Grampas, Romero, McElhany, Swenson, and Tucker.

**AN ACT**

**CONCERNING THE DISPOSAL OF PROPERTY NO LONGER NECESSARY FOR TRANSPORTATION PURPOSES WITHIN THE STATE.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 43-1-210 (5), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**43-1-210. Acquisition and disposition of property.** (5) (a) (I) The department of transportation is authorized subject to approving resolution of the transportation commission, to dispose of any property or interest therein IN THE MANNER SPECIFIED IN THIS SECTION which, in the opinion of the chief engineer, is no longer needed for ~~state highway~~ TRANSPORTATION purposes. SUBJECT TO THE PROVISIONS OF THIS SECTION, any sale or exchange of such property OR INTEREST shall be upon ~~such~~ THE terms and conditions as the commission and chief engineer, with the approval of the governor, may fix. ~~The cost of any property offered to any political subdivision of this state shall not exceed the cost of acquisition to the department of transportation.~~ Title to such property shall be transferred by appropriate instruments of conveyance, without warranties, and any moneys received shall be deposited with the state treasurer to the credit of the state highway supplementary fund. ~~Nothing in this subsection (5) shall authorize the sale or conveyance of highway rights-of-way upon which a highway has been constructed and opened for public travel, the disposition of which is governed by section 43-2-106. Any political subdivision of this state, including but not limited to any state agency, city or town, or county, shall have first refusal on property upon which disposition is being made if it declares in writing that it shall use the property for the restoration, preservation, and enhancement of scenic beauty; for the development of rest, recreation, and sanitary facilities; or for the development of "greenbelts", as the term is commonly used. Any transfer to any such~~

-----  
*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~agency, city, town, county, or governmental entity shall be subject to a right of reversion if the property or interest therein is not so used by them. For a period of ninety days after the declaration by the chief engineer, approved by the commission, that the property or interest therein is no longer needed for state highway purposes, the department of transportation shall receive bids from any such political subdivision on the property upon which disposition is being made. Thirty days after the bidding has closed, the division shall notify all bidders as to the acceptance or rejection of their bids. In the event that no political subdivision wishes to purchase the property for the purposes stated in this subsection (5), the abutting owner shall have refusal on property upon which disposition is being made. The common-law doctrine of the rule against perpetuities shall not apply to rights to purchase or rights to repurchase.~~

(II) PRIOR TO THE DISPOSAL OF ANY PROPERTY OR INTEREST THEREIN THAT THE DEPARTMENT DETERMINES HAS AN APPROXIMATE VALUE OF FIVE THOUSAND DOLLARS OR MORE, THE DEPARTMENT SHALL OBTAIN AN APPRAISAL FROM AN APPRAISER, WHO IS CERTIFIED AS A GENERAL APPRAISER UNDER SECTION 12-61-706, C.R.S., TO DETERMINE THE FAIR MARKET VALUE OF SUCH PROPERTY OR INTEREST.

(III) IF THE DEPARTMENT DETERMINES THAT THE PROPERTY OR INTEREST THEREIN IS OF USE ONLY TO ONE ABUTTING OWNER OR, IN THE CASE OF AN EASEMENT, TO THE UNDERLYING FEE OWNER, THE ABUTTING OWNER OR UNDERLYING FEE OWNER SHALL HAVE FIRST RIGHT OF REFUSAL TO PURCHASE OR EXCHANGE THE PROPERTY OR INTEREST THEREIN UPON WHICH DISPOSITION IS BEING MADE AT THE FAIR MARKET VALUE.

(IV) (A) IF THE ABUTTING OWNER OR UNDERLYING FEE OWNER REFUSES TO EXERCISE THE FIRST RIGHT OF REFUSAL TO PURCHASE OR EXCHANGE THE PROPERTY OR INTEREST THEREIN UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH (a) OR IF THE DEPARTMENT DETERMINES THAT SUCH PROPERTY OR INTEREST IS OF USE TO MORE THAN ONE OWNER OR POTENTIAL OWNER, ANY POLITICAL SUBDIVISION OF THIS STATE INCLUDING BUT NOT LIMITED TO ANY STATE AGENCY, CITY OR TOWN, OR COUNTY LOCATED WITHIN THE BOUNDARIES OF THE PROPERTY OR INTEREST THEREIN SHALL HAVE FIRST RIGHT OF REFUSAL TO PURCHASE OR EXCHANGE SUCH PROPERTY OR INTEREST AT THE FAIR MARKET VALUE.

(B) IF NO POLITICAL SUBDIVISION EXERCISES ITS RIGHT OF FIRST REFUSAL TO PURCHASE OR EXCHANGE THE PROPERTY OR INTEREST THEREIN PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IV), THE DEPARTMENT SHALL DISPOSE OF SUCH PROPERTY OR INTEREST BY MEANS OF A SALE OR EXCHANGE FOR NOT LESS THAN ITS FAIR MARKET VALUE.

(V) FOR PROPERTY OR INTEREST THEREIN SUBJECT TO DISPOSITION THAT THE DEPARTMENT DETERMINES HAS AN APPROXIMATE VALUE OF LESS THAN FIVE THOUSAND DOLLARS, THE DEPARTMENT SHALL DISPOSE OF SUCH PROPERTY OR INTEREST BY MEANS OF A SALE OR EXCHANGE AT NOT LESS THAN ITS FAIR MARKET VALUE IN THE MANNER SET FORTH IN THIS SUBSECTION (5); EXCEPT THAT THE DEPARTMENT MAY EMPLOY A RIGHT-OF-WAY ACQUISITION AGENT AS SPECIFIED IN SECTION 12-61-702 (5), C.R.S., TO PROVIDE AN ESTIMATE OF THE FAIR MARKET VALUE OF SUCH PROPERTY OR INTEREST AND TO DETERMINE TO WHOM SUCH PROPERTY OR INTEREST IS OF USE.

~~(b) Nothing in paragraph (a) of this subsection (5) shall authorize the sale, exchange, or conveyance to any political subdivision of this state, including but not limited to any state agency, city or town, or county, of land acquired for state highway purposes but upon which there has been no construction. If the department of transportation desires to dispose of such land, the original owner shall have first refusal on such property.~~

(c) IF THE DEPARTMENT IS NOT ABLE TO DISPOSE OF THE PROPERTY OR INTEREST THEREIN BY MEANS OF A SALE OR EXCHANGE FOLLOWING A DILIGENT EFFORT FOR A FIVE-YEAR PERIOD, THE DEPARTMENT SHALL VACATE SUCH PROPERTY OR INTEREST AND TITLE TO SUCH PROPERTY OR INTEREST SHALL VEST IN ACCORDANCE WITH THE PROVISIONS OF PART 3 OF ARTICLE 2 OF THIS TITLE.

(d) AS USED IN THIS SUBSECTION (5), "EXCHANGE" MEANS THE TRANSFERRING OF PROPERTY, INCLUDING IMPROVEMENTS, WATER RIGHTS, LAND, OR INTERESTS IN LAND OR WATER RIGHTS, BY THE DEPARTMENT TO ANOTHER PERSON IN CONSIDERATION FOR THE TRANSFER TO THE DEPARTMENT OF OTHER PROPERTY, INCLUDING IMPROVEMENTS, WATER RIGHTS, LAND, OR INTERESTS IN LAND OR WATER RIGHTS, CASH, OR SERVICES OR OTHER CONSIDERATION THEREOF; EXCEPT THAT ANY CASH OR SERVICES RECEIVED MAY NOT EXCEED FIFTY PERCENT OF THE TOTAL VALUE OF THE CONSIDERATION. A TRANSACTION OTHERWISE QUALIFYING AS AN EXCHANGE SHALL NOT BE DEEMED A SALE MERELY BECAUSE DOLLAR VALUES HAVE BEEN ASSIGNED TO ANY PROPERTY, INCLUDING IMPROVEMENTS, WATER RIGHTS, LAND, OR INTERESTS IN LAND OR WATER RIGHTS, FOR THE PURPOSE OF ENSURING THAT THE DEPARTMENT WILL RECEIVE ADEQUATE COMPENSATION.

**SECTION 2.** 43-2-106, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**43-2-106. Abandoned state highways.** (1) When a portion of a state highway is relocated and, because of ~~such~~ THE relocation, a portion of the route as it existed before ~~such~~ THE relocation is, in the opinion of the TRANSPORTATION commission, no longer necessary as a state highway, such portion shall be considered as abandoned. ~~and title to it shall revert to the owner of the land through which such abandoned portion may lie, subject to the provisions of part 3 of this article. If it appears that the abandoned portion is necessary for use as a public highway, street, or road, then~~ Such abandoned portion shall become a county highway, upon the adoption of a resolution to that effect by the board of county commissioners, or a city street, upon the adoption of an ordinance to that effect by the ~~city council or local~~ governing body OF ANY CITY OR TOWN, within ninety days after THE OFFICIAL NOTIFICATION OF such abandonment by the TRANSPORTATION commission. IF THE COUNTY, CITY, OR TOWN CEASES TO USE THE ABANDONED PORTION OF THE HIGHWAY FOR THE PURPOSE OF A COUNTY HIGHWAY OR A CITY STREET, TITLE TO SUCH ABANDONED PORTION SHALL REVERT TO THE DEPARTMENT OF TRANSPORTATION.

(2) IF, PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE ABANDONED PORTION OF A STATE HIGHWAY IS NOT CLAIMED BY A COUNTY, CITY, OR TOWN OR IF TITLE TO SUCH ABANDONED PORTION REVERTS TO THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF TRANSPORTATION SHALL DISPOSE OF THE ABANDONED PORTION BY MEANS OF A SALE OR EXCHANGE FOR NOT LESS THAN FAIR MARKET VALUE IN THE MANNER SET FORTH IN SECTION 43-1-210 (5).

(3) IF THE DEPARTMENT OF TRANSPORTATION IS NOT ABLE TO DISPOSE OF THE ABANDONED PORTION OF A STATE HIGHWAY BY MEANS OF A SALE OR EXCHANGE FOLLOWING A DILIGENT EFFORT FOR A FIVE-YEAR PERIOD, THE DEPARTMENT SHALL VACATE THE ABANDONED PORTION AND TITLE TO SUCH PORTION SHALL VEST IN ACCORDANCE WITH THE PROVISIONS OF PART 3 OF THIS ARTICLE.

(4) If it appears to the TRANSPORTATION commission that any landowner suffers damages because of the abandonment of any portion of a state highway, such damages shall be determined, tendered, and paid out of funds allocated to the department of transportation in the same manner as other damages as provided by law.

(5) AS USED IN THIS SECTION, "EXCHANGE" HAS THE SAME MEANING AS SET FORTH IN SECTION 43-1-210 (5) (d).

**SECTION 3.** The introductory portion to 43-2-302 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

**43-2-302. Vesting of title upon vacation.** (1) SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTIONS 43-1-210 (5) AND 43-2-106 GOVERNING THE DISPOSITION OF CERTAIN PROPERTY BY THE DEPARTMENT OF TRANSPORTATION, whenever any roadway has been designated on the plat of any tract of land or has been conveyed to or acquired by a county or incorporated town or city or by the state or by any of its political subdivisions for use as a roadway, and thereafter is vacated, title to the lands included within such roadway or so much thereof as may be vacated shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues, as follows:

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1996