

**68-413. Acquisition of title or easement by secretary of transportation, eminent domain; disposition of property or interest, sale at public auction, when; appraisal; advertisement of sale; reappraisal, when; conveyance, record; disposition of moneys; succession of secretary of transportation to right, title and interest of highway commission; release of easements.** (a) Subject to subsection (b), the secretary of transportation, in the name of the state, may acquire title or easement by purchase, dedication or by the exercise of the right of eminent domain: (1) To or upon any lands or interests or rights therein; (2) to water, gravel, stone, sand or other material; (3) to spoil banks or to borrow pits necessary for the construction, reconstruction, improvement, maintenance or drainage of the state highway system; or (4) to access ways to spoil banks or borrow pits or any bed, pit, quarry or other place where gravel, stone, water, or other material required in the construction, reconstruction, improvement, maintenance or drainage of the state highways may be located. The secretary of transportation, in the name of the state, may acquire, by purchase, title to an entire lot, block or tract of land for state highway purposes even though such entire lot, block or tract is not immediately needed for state highway purposes, if the secretary finds that by so doing the interests of the public will be best served, and without limiting the foregoing, the same may be done where uneconomic remnants of land would be left the original owner or where severance or consequential damage to a remainder make the acquisition of the entire lot, block or tract more economical to the state.

(b)(1) Exercise of the right of eminent domain by the secretary shall be in accordance with and governed by article 5 of chapter 26 of the Kansas Statutes Annotated, and amendments thereto.

(2) Every petition filed by the secretary to acquire lands or any interest in or title thereto by the exercise of the right of eminent domain shall set forth the extent, quantity and nature of the interest or title to be acquired.

(3) Except as otherwise provided in paragraph (4) of this subsection (b), the secretary shall not acquire by eminent domain any right, title or interest in or to the oil and gas minerals under or in any lands, and the petition in any condemnation proceedings shall state that right, title or interest in or to such oil and gas minerals is not being condemned.

(4) The secretary may acquire by eminent domain the fee simple title to lands when such lands are acquired for sites for the construction of buildings or improvements necessarily incident to the operation, maintenance and supervision of a state system of highways.

(c) The secretary may acquire fee simple title or any lesser degree of title or interest or rights in land by purchase or dedication.

(d)(1) Subject to the provisions of paragraph (2) of this subsection (d) the secretary may dispose of any real estate or any right, title or degree or variety of interest therein which has theretofore been acquired for state highway purposes, in the manner the secretary deems most expedient, when such real estate or interest therein is no longer needed or used for state highway purposes. The secretary may exchange the right-of-way in which the secretary has an interest or title greater than an easement for new or other right-of-way.

(2) Whenever the secretary shall determine in the manner provided by paragraph (1) of this subsection (d) that any real estate should be disposed of by sale, such secretary shall sell the same, in the name of the state of Kansas, to the highest bidder at public auction and thereby convey and transfer all of the right, title and interest of the state of Kansas in such real estate.

As soon as reasonably practical after the secretary determines that any such real estate should be sold, the secretary shall have the real estate appraised by three disinterested persons and advertise the sale in a newspaper of general circulation in the county where the real estate is situated once each week for at least three consecutive weeks prior to the date set for such sale. In no case shall such real estate be sold for less than 2/3 of its appraised value except that if no sale has been effected after an effort to sell under this section, the secretary may set aside the appraisal and order a new appraisal and readvertise the real estate for sale. If the new appraisal does not exceed \$1,000, the secretary may readvertise and sell the real estate to the highest bidder. If the secretary determines that sale by public auction would be inappropriate, the real estate may be sold in the manner deemed most expedient by the secretary. The secretary may charge an amount in connection with the release of any permanent easement. The amount charged shall not exceed the increase in value accruing to the underlying fee owner resulting from the termination of the property interest held by the secretary in the name of the state of Kansas. Conveyances of real estate under this section shall be by deed executed by the secretary of transportation. The secretary shall keep a record of all such conveyances. All moneys derived from such sales or charges shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

(e) On August 15, 1975, the secretary of transportation shall succeed to whatever right, title or interest the state highway commission has acquired in any land in this state, and the secretary of transportation shall hold the same for and in the name of the state of Kansas. Whenever any land or any right, title or interest in any land is acquired by the secretary of transportation or is acquired for state highway purposes, such right, title or interest shall be taken and held by the secretary of transportation in the name of the state of Kansas.

**History:** L. 1929, ch. 225, § 14; L. 1931, ch. 246, § 1; L. 1937, ch. 286, § 1; L. 1951, ch. 381, § 1; L. 1961, ch. 303, § 1; L. 1963, ch. 234, § 86; L. 1975, ch. 426, § 54; L. 1981, ch. 264, § 1; L. 2001, ch. 5, § 278; July 1.