

No. 271, S.]

[Published June 22, 1945.]

## CHAPTER 341.

AN ACT to repeal 84.01 (15); and to amend 83.08 (1) and (2) and 84.09 of the statutes, relating to the acquisition of lands and interests therein for highways which the county or the highway commission may improve or maintain, and the disposal of excess property acquired by the state.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 83.08 (1) and (2) of the statutes are amended to read:

83.08 \* \* \* ACQUISITION OF \* \* \* LANDS AND INTEREST THEREIN. (1) \* \* \* The county highway committee \* \* \* may acquire by gift, devise, purchase or condemnation any lands or interests therein for the proper improvement, maintenance, relocation or change of any county aid or other highway or street or any bridge thereon \* \* \* which the county is empowered to improve or aid in improving, or to maintain. Whenever the committee deems it necessary to acquire any such lands or interests therein for any such purpose, it shall so order \* \* \* and \* \* \* in such order or on a map or plat \* \* \* show the old and new locations and \* \* \* the lands or interests required, and shall file a copy of the order and map with the \* \* \* county clerk. \* \* \* The committee shall \* \* \* endeavor to obtain easements \* \* \* or title in fee simple by conveyance of the lands or \* \* \* interests required, at a price, including damages, deemed reasonable by the committee. The \* \* \* instrument of conveyance shall name the county as grantee \* \* \* and shall be filed with the county clerk and recorded in the office of the register of deeds.

(2) If any of the needed lands \* \* \* or interests therein cannot be purchased *expeditiously* for a reasonable price, the committee may acquire the same either by condemnation \* \* \* under chapter 32 or section 83.07, or make and sign an award of damages to the \* \* \* owner and file the same with the county clerk; and thereupon the amount so awarded shall be payable the same as when the lands \* \* \* or interests are acquired by purchase; and the \* \* \* owner may receive the award without prejudice to his right to claim and to contest for a greater sum. When the award has been filed, the highway au-

thorities and their contractors and employes may take possession of the \* \* \* *lands and exercise full control of the interests in lands acquired.* A copy of the award shall be delivered or mailed to the owner if his address be known and if not known then to the occupant of the land. If the land is unoccupied and the *name or address of the owner is unknown,* the award shall be published *at least once each week* for 3 successive weeks in a newspaper having general circulation in the county. *The award of damages to the owner shall be recorded in the office of the register of deeds.* The \* \* \* owner may, within 2 years after the filing of the award *with the county clerk,* proceed as provided in chapter 32 to have his damages appraised, or may within said period apply to the county judge, on 5 days' written notice to any member of the highway committee, to appraise the damages and thereafter the proceedings shall be as provided in section 83.07.

SECTION 2. 84.01 (15) of the statutes is repealed.

SECTION 3. 84.09 of the statutes is amended to read:

84.09 \* \* \* ACQUISITION OF LANDS AND INTERESTS THEREIN.

(1) \* \* \* The state highway commission \* \* \* *may acquire \* \* \* by gift, devise, purchase or condemnation any lands for establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving, and maintaining highways, streets and roadside parks which it is empowered to improve or maintain, or interests \* \* \* in lands in and about and along and leading to any or all of the same; \* \* \* and after establishment, layout and completion of such improvements, the commission may convey as hereinafter provided such lands thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such lands so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air, and usefulness of such public works. Whenever the commission deems it necessary to acquire any such lands or interests therein for any of such purposes, it shall so order and \* \* \* in such order or on a map or plat show the old and new locations and \* \* \* the lands and interests required, and shall file a copy of the order and map with the county clerk and county highway committee of each county in which such lands or \* \* \* interests are required. For the purposes of this section the commission may acquire private or public lands or interests therein.*

*When so provided in the commission's order, such lands shall be acquired in fee simple. Unless it elects to proceed under subsection (3), the commission shall endeavor to obtain easements \* \* \* or title in fee simple by conveyance of the lands or interests required at a price, including any damages, deemed reasonable by the commission. The \* \* \* instrument of conveyance shall name the state as grantee \* \* \* and shall be recorded in the office of register of deeds. The purchase or acquisition of lands or interests therein under the provisions of this section is excepted and exempt from the provisions of section 20.84.*

(2) If any of the needed lands \* \* \* or interests therein cannot be purchased *expeditiously* for a reasonable price, the commission may acquire the same by condemnation \* \* \* under chapter 32, or in the manner provided for counties under section 83.07, or may make an award of damages to the \* \* \* owner and file a copy of the award with the county clerk; and thereupon the amount so awarded shall be payable the same as when the lands \* \* \* or interests are acquired by purchase; and the said \* \* \* owner may receive the award without prejudice to his right to claim and to contest for a greater sum. When the award has been filed, the highway authorities and their contractors and employes may take possession of the \* \* \* lands and exercise full control of the interests in lands acquired. A copy of the award shall be delivered or mailed to the \* \* \* owner if his address is known and if not known then to the occupant of the land. If the land is unoccupied and the name or address of the owner is unknown the award shall be published at least once each week for 3 successive weeks in a newspaper having a general circulation in the county. The award of damages to the owner shall be recorded in the office of the register of deeds. The \* \* \* owner may, within 2 years after the filing of the award with the county clerk, proceed as provided in chapter 32 to have his damages appraised, or he may within said period apply to the county judge on 5 days' written notice to the commission to appraise his damages and thereafter the proceedings shall be as provided in section 83.07.

(3) The commission may order that all or certain parts of the required land or interests therein shall be acquired by the county highway committee. When so ordered, the \* \* \* committee and the commission shall \* \* \* appraise and

agree on the *maximum* price, including damages, considered reasonable for the lands or \* \* \* *interests* to be so acquired \* \* \*. The \* \* \* committee shall endeavor to obtain easements \* \* \* or *title in fee simple by conveyance* of the lands or \* \* \* *interests* required, \* \* \* as directed in the commission's order. The \* \* \* *instrument of conveyance* shall name the county as grantee, shall be subject to approval by the commission, and shall be filed with the county clerk and recorded in the office of the register of deeds. If the needed lands \* \* \* or *interests* therein cannot be purchased \* \* \* *expeditiously* within the appraised price, the county highway committee may acquire them by condemnation \* \* \* under chapter 32, or in the manner provided in section 83.07 \* \* \* or, subject to approval by the commission, in the manner provided in section 83.08 (2). *Any lands or interests therein acquired pursuant to this subsection shall be conveyed to the state without charge by the county highway committee in the name of the county when so ordered by the commission.*

(4) The cost of the lands and \* \* \* *interests* acquired pursuant to this section, including any damages allowed and other expenses connected therewith, shall be paid out of the available improvement or maintenance funds.

(5) *Subject to the approval of the governor as herein provided, the highway commission is authorized and empowered to sell at public or private sale, lands or interests therein, including roadside parks, owned by the state and under the jurisdiction of the highway commission when the commission shall determine that said lands or interests are no longer necessary for the state's use for highway purposes. The commission shall present to the governor a full and complete report of the lands or interests to be sold, the reason for the sale, and the minimum price for which the same should be sold, together with an application for the governor's approval of such sale. The governor shall thereupon make such investigation as he may deem necessary and approve or disapprove such application. Upon such approval and receipt of the full purchase price, the commission shall convey the lands or interests to the purchaser. The funds derived from such sale shall be deposited in the appropriate highway fund, and the expense incurred by the commission in connection with the sale shall be paid from such fund.*

Approved June 20, 1945.