

No. 480, S.]

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CHAPTER 530

AN ACT to amend 84.09 (1); and to repeal and recreate 84.09 (2) of the statutes, relating to allowing the purchase of land remnants and to procedure in highway condemnation cases.

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

SECTION 1. 84.09 (1) of the statutes is amended to read:

84.09 (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, roadside parks and weighing stations 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 land shall be acquired in fee simple. Unless it elects to proceed under sub. (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 * * * this section is excepted and exempt from * * * s. 20.84. *The commission may purchase or accept donations of remnants of tracts or parcels of land existing at the time or after it has acquired portions of such tracts or parcels by purchase or condemnation for highway purposes where in the judgment of the commission such action would assist in making whole the land owner, a part of whose lands have been taken for highway purposes and would serve to minimize the overall cost of such taking by the public.*

SECTION 2. 84.09 (2) of the statutes is repealed and recreated to read:

84.09 (2) If any of the needed lands or interests therein cannot be purchased expeditiously for a price deemed reasonable by the commission, the commission may acquire the same by condemnation under ch. 32, or in the manner provided for counties under s. 83.07, or may make an award of damages naming as recipients the owner or owners and any person known to have any legal or equitable interest in said lands. The original of said award shall be recorded in the office of the register of deeds of the county wherein the lands are situated and shall then be filed with the commission. Thereupon the amount so awarded shall be tendered to the owner, or in the case of more than one owner to one of them by a bank check made payable to the owner, owners and any person known to have any legal or equitable interest in said lands. Said tender may be made by registered mail or by personal service. If the owner to whom tender is made shall refuse to accept the same, or if the whereabouts of any recipient cannot be ascertained, tender may be made by depositing the same with and payable to the clerk of any court of record in the county in which all or any part of the lands taken are situated. The award shall be received by said clerk, deemed in the custody of the court and paid out only on order of the court. A copy of said award shall also be filed with the court at the time. Any recipient may commence an action for the determination of the rights of the recipients and for distribution of the award. In all cases where tender is accepted or made through the court as aforesaid, it shall be without prejudice to the right of appeal for a greater sum but no interest on the amount of the original award shall be recoverable. A copy of said award and notice to whom the check has been delivered shall be delivered or mailed to all recipients whose addresses are known. In addition to the above provisions, if the name or address of any recipient is unknown, the award shall be published at least once each week for 3 successive weeks in a newspaper having general circulation in the same county in which the award was deposited, shall state where the award has been deposited and that it is available to the recipients if claimed within the time allowed by s. 59.89. After the award of damages has been

recorded in the office of the register of deeds, and the amount of the award has been paid, tendered or deposited as herein set forth title to lands described in the award shall vest in the state for the use and to the extent designated in the award and the state may take possession of the lands and exercise full control of the interests in lands acquired. The circuit court of the county may upon 24 hours' notice to the occupant of said lands, grant a writ of assistance to the state to place it in possession of such lands. Any recipient may, within two years after the recording of the award with the register of deeds, apply to the county judge on 20 days' written notice to the state highway commission to appraise his damages and thereafter proceedings shall be as provided in s. 83.07. Any recipient appealing shall join all other recipients by service of 20 days' notice of such appeal. In the event the award of the county judge shall be lower than the original award and tender of the award has been accepted by an owner, the state shall have a lien against such owner for the amount of the difference. The lien shall give the name and address of the owner or owners, refer to the original award and the award on appeal and state the difference in amounts. The lien may be filed in the office of the register of deeds and when so filed shall attach to all property of the owner presently owned or subsequently acquired in any county where such lien is filed. Such lien shall remain in force with interest until satisfied or until it is set aside by a judgment of the circuit court in an action pursuant to s. 32.11.

Approved August 2, 1955.
