

CHAPTER 121
PRESERVATION OF RAIL CORRIDORS
S.F. 499

AN ACT providing for the preservation of rail corridors for future rail use upon abandonment of the rail corridors.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 307B.7, Code 1983, is amended by adding the following new subsection:
NEW SUBSECTION. 25. Acquire property interests subject to the limitations on purchases provided in section 307B.7, subsection 5, in rail lines to ensure continued rail use and preserve abandoned rail lines for future railroad use.

Sec. 2. **NEW SECTION. 307B.24 ACQUISITION OF ABANDONED RIGHT-OF-WAY.** A railway corporation which has received authorization to abandon a rail line must offer the line to the authority for sale prior to removing the track materials. The corporation shall state a reasonable price for:

1. The corporation's right, title, and interest in the right-of-way, track materials, and rail facilities.

2. An exclusive, transferable, five-year option to purchase all of the corporation's right, title, and interest in the right-of-way, track materials, and rail facilities.

The authority may waive the requirements of this section.

The authority shall have thirty days in which to accept or decline the corporation's offer for all or any part of the rail line. If the authority fails to accept the offer within thirty days of the offer, the corporation may dispose of the property.

If the authority accepts all or any part of the offer, the corporation shall execute the proper documents upon delivery of the purchase price which shall not be later than ninety days from the date of the offer.

Sec. 3. Section 327D.1, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

327D.1 APPLICABILITY OF CHAPTER. This chapter shall apply to intrastate transportation by for hire common carriers of persons and property.

Sec. 4. Chapter 327D, Code 1983, is amended by adding the following new sections:

NEW SECTION. 327D.200 INCONSISTENCY WITH FEDERAL LAW—RAILROADS. If any provision of this chapter is inconsistent or conflicts with federal laws, rules or regulations applicable to railway corporations subject to the jurisdiction of the federal interstate commerce commission, the authority shall suspend the provision, but only to the extent necessary to eliminate the inconsistency or conflict.

NEW SECTION. 327D.201 RAILROAD INTRASTATE RATES—RULES. The authority may issue rules relating to the regulation of railroad intrastate rates, classifications, rules and practices in accordance with the standards and procedures of the federal interstate commerce commission applicable to rail carriers.

Sec. 5. Section 327G.76, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

327G.76 TIME OF REVERSION. Railroad property rights which are extinguished upon cessation of service by the railroad divest when the railway finance authority or the railroad, having obtained authority to abandon the rail line, removes the track materials to the right-of-way. If the railway finance authority does not acquire the line and the railway company does not remove the track materials, the property rights which are extinguished upon cessation of service by the railroad divest one year after the railway obtains the final authorization necessary from the proper authority to remove the track materials.

Sec. 6. Section 327G.77, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

327G.77 REVERSION OF RAILROAD RIGHT-OF-WAY.

1. If a railroad easement is extinguished under section 327G.76, the property shall pass to the owners of the adjacent property at the time of abandonment. If there are different owners on either side, each owner will take to the center of the right-of-way. Section 614.24 which requires the filing of a verified claim does not apply to rights granted under this subsection.

2. An adjoining property owner may perfect title under subsection 1 by filing an affidavit of ownership with the county recorder. The affidavit shall include the name of the adjoining property owner, a description of the property, the present name of the railroad, the jurisdiction, docket number, and date of order authorizing the railroad to terminate service, and the approximate date the track materials on the right-of-way were removed. A copy of the affidavit must be mailed by the landowner by certified mail to the railroad. The landowner shall pay taxes on the right-of-way from the date the affidavit is filed.

3. Utility facilities located on abandoned railroad right-of-way shall remain on the right-of-way subject to payment by the utility of the fair market value of an easement for the facilities. The utility shall, within sixty days from the time the property is transferred from the railroad, extend a written offer to the landowner to purchase the easement at fair market value. The landowner shall accept or reject the utility's offer within sixty days from the time of receipt. If a disagreement arises between the parties concerning the price or other terms of the transaction, either party may make written application to a compensation commission as established pursuant to chapter 472 to resolve the disagreement. This application shall be made within sixty days from the time the landowner's response is served upon the utility. The compensation commission shall hear the controversy and make a final determination of the fair market value of the easement and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

Sec. 7. Section 327G.78, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Subject to sections 327G.77; ~~and 471.16, and 471.17,~~ when a railroad corporation, its trustee, or successor in interest have interests in real property adjacent to a railroad right-of-way that are abandoned by order of the interstate commerce commission, reorganization court, bankruptcy court, or the authority ~~or are otherwise abandoned as defined by section 471.15,~~ or when a railroad corporation, trustee, or successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation or trustee shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the authority to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon the railroad corporation, trustee, or successor in

interest by the person wishing to purchase the property. The authority shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

This section shall not apply when a rail line is being sold for continued railroad use.

Sec. 8. Section 427.1, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 39. Railroad right-of-way and improvements on the right-of-way only during that period of time that the Iowa railway finance authority holds an option to purchase the right-of-way under section 307B.24.

Sec. 9. Section 471.6, Code 1983, is amended to read as follows:

471.6 RAILWAYS. The state Iowa railway finance authority or any railway corporation, may acquire by condemnation property as ~~may be~~ necessary for the location, construction, and convenient use of a railway. The Iowa railway finance authority may acquire fee title or a lesser property interest. The authority shall offer to sell its interest in the property at fair market value to the adjoining property owners upon abandonment. The acquisition shall carry the right to use for the construction and repair of the railway and its appurtenances any earth, gravel, stone, timber, or other material, on or from the land taken.

Sec. 10. Section 471.9, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The state Iowa railway finance authority or a railway corporation may, by condemnation or otherwise, acquire lands for the following additional purposes:

Sec. 11. Section 471.10, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

471.10 INITIATING RAILROAD CONDEMNATION.

1. The railway corporation shall apply to the transportation regulation authority for permission to condemn. The authority may, after hearing, report to the district court clerk of the county in which the land is situated the description of the land sought to be condemned. The corporation may begin condemnation procedures in district court for the land described by the authority.

2. The railway finance authority may begin condemnation proceedings in district court.

Sec. 12. Section 471.11, Code 1983, is amended to read as follows:

471.11 LANDS FOR WATER STATIONS—HOW SET ASIDE. Lands which are sought to be condemned for water stations, dams, or reservoirs, including all the overflowed lands, if any, shall, if requested by the owner, be set aside in a square or rectangular shape by the transportation regulation authority or district court.

Sec. 13. Section 471.16, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

471.16 RIGHT TO CONDEMN ABANDONED RIGHT-OF-WAY. Railroad right-of-way which has been abandoned by order of the proper authority, may be condemned by a railway corporation or the Iowa railway finance authority before or after the track materials have been removed. The procedure to condemn abandoned right-of-way shall be the same as for an original condemnation.

Sec. 14. Section 471.18, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

471.18 NO DOUBLE DAMAGES. Owners of abandoned right-of-way which was originally condemned for rail purposes shall not receive additional compensation unless the track materials were removed prior to the second condemnation.

Sec. 15. Sections 471.15 and 471.17, Code 1983, are repealed.