

§5159. Eminent domain

The redevelopment authority may acquire all or any part of real property in accordance with this chapter by the exercise of the power of eminent domain whenever the redevelopment authority determines that the acquisition of the real property is in the public interest or necessary for the purposes of this chapter. [PL 2021, c. 664, §3 (NEW).]

1. Resolution; documents filed; damages determined. The necessity of an acquisition under this section is conclusively presumed upon the redevelopment authority's adoption of a resolution declaring that the acquisition of the real property described in the resolution is in the public interest and necessary for the purposes of this chapter.

A. Within 3 months after a resolution is adopted under this subsection, the redevelopment authority shall file in the registry of deeds of the county in which the real property is located:

- (1) A copy of the redevelopment authority's resolution;
- (2) A plat of the real property described; and
- (3) A statement, signed by the chair of the redevelopment authority, that the real property is taken under this chapter. [PL 2021, c. 664, §3 (NEW).]

B. After the documents are filed under paragraph A, the redevelopment authority shall determine the damages for the real property taken in the same manner as is provided for land taken for highway purposes under Title 23, chapter 3 and shall file a statement of this determination in the appropriate Superior Court. [PL 2021, c. 664, §3 (NEW).]

[PL 2021, c. 664, §3 (NEW).]

2. Title vests in redevelopment authority; bonds deposited. Title to real property under this section vests in the redevelopment authority in fee simple absolute and the redevelopment authority may take possession of the real property when:

A. The copy of the resolution, plat and statement is filed in the registry of deeds; [PL 2021, c. 664, §3 (NEW).]

B. The statement is filed in the Superior Court; and [PL 2021, c. 664, §3 (NEW).]

C. Bonds, to the use of persons entitled to them, are deposited in the Superior Court with surety satisfactory to the clerk of the court in the amounts that the court determines to be sufficient to satisfy the claims of all persons interested in the real property. The court may, in its discretion, take evidence on the question to determine the amounts of the bonds to be deposited. [PL 2021, c. 664, §3 (NEW).]

[PL 2021, c. 664, §3 (NEW).]

3. Service on owners; nonresidents; unknown owners. After the copy, plat and statement are filed under subsection 1, paragraph A, a sheriff or a sheriff's deputy shall serve notice of the taking of the real property upon the owner of the real property by delivering a true and attested copy of the description and statement under subsection 1 to the owner personally or at the owner's last and usual place of abode in the State or to a person living there.

A. If an owner is not a resident of the State, a true and attested copy of the notice must be sent by registered mail, return receipt requested, to the owner at the owner's last known address. [PL 2021, c. 664, §3 (NEW).]

B. If the ownership of the real property cannot be ascertained after due and diligent search, an award must be made to persons unknown for the value of the real property and bonds for that amount running to the treasurer of the county for the use of persons entitled to the bonds must be deposited in the Superior Court. If, within 2 years after the bonds are deposited, no person has been

able to prove ownership of the real property, the Superior Court shall order these bonds to be cancelled and returned to the redevelopment authority. [PL 2021, c. 664, §3 (NEW).]
[PL 2021, c. 664, §3 (NEW).]

4. Notice published. After the resolution, plat and statement are filed under subsection 1, paragraph A, the redevelopment authority shall publish a copy of the resolution and statement in a newspaper having general circulation in the county at least once a week for 3 successive weeks. The statement must set forth the names of the owners of the real property to be taken and the amount awarded to them.
[PL 2021, c. 664, §3 (NEW).]

5. Agreement and cancellation of bonds. When an owner of real property taken under this section agrees with the redevelopment authority on the price of the real property and the sum agreed upon is paid by the redevelopment authority, the court shall order the bonds deposited under subsection 2, paragraph C to be cancelled and returned to the redevelopment authority.
[PL 2021, c. 664, §3 (NEW).]

6. Complaint to Superior Court; trial. An owner of real property taken under this section who cannot agree with the redevelopment authority on the price of the real property may within 3 months after personal notice of the taking or, if the owner has no personal notice, within one year from the first publication of the copy of the resolution and statement under subsection 4 apply by complaint to the Superior Court in the applicable county, setting forth the taking of the real property and petitioning for an assessment of damages by a jury or, by agreement of the parties, a referee or referees appointed by the court.

A. When a complaint is filed under this subsection, the court shall give 20 days' notice of the pendency of the action to the redevelopment authority by serving the chair of the redevelopment authority with a certified copy of the complaint. The court may proceed after this notice to the trial of the action. The trial must determine all questions of fact relating to the value and the amount of the real property, and judgment must be entered upon the verdict of the jury. Execution must be issued for that judgment against the money deposited in the court under subsection 2, paragraph C.
[PL 2021, c. 664, §3 (NEW).]
[PL 2021, c. 664, §3 (NEW).]

7. Conflicting ownership. If the redevelopment authority is in doubt as to conflicting ownership or interest, the redevelopment authority may file a complaint in the Superior Court for a determination of the various rights and amounts due. If 2 or more conflicting plaintiffs claim the same real property or different interests in the same parcel of real property, the court, upon motion, shall consolidate their several complaints for trial at the same time by the same jury and may frame all necessary issues for the trial of that action.
[PL 2021, c. 664, §3 (NEW).]

8. Appeal. Appeal from the decision of the Superior Court may be made in the same manner as is provided for appeals in civil cases.
[PL 2021, c. 664, §3 (NEW).]

9. Property of incapable persons. If any real property in which a person not capable in law to act in the person's own behalf is interested is taken by the redevelopment authority under this chapter, the Superior Court, upon the filing of any complaint by or in behalf of the person, may appoint a guardian ad litem for the person. This guardian may appear and be heard on behalf of the person and may, with the advice and consent of the Superior Court and upon any terms that the Superior Court prescribes, release to the redevelopment authority all claims for damages for the real property of the person. Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of such a person, with the approval of the Probate Court having jurisdiction to authorize the sale of real property within the State of the person, may, before the filing of any such complaint, agree with the

redevelopment authority upon the amount of damages suffered by the person by any taking of real property and may, upon receiving that amount, release to the redevelopment authority all claims for damages of the person for the taking.

[PL 2021, c. 664, §3 (NEW).]

10. Expediting proceedings; taking public property. In any proceedings for the assessment of compensation and damages for real property taken or to be taken by eminent domain by the redevelopment authority, the following provisions apply.

A. At any time during the pendency of the action or proceedings, the redevelopment authority or an owner may apply to the court for an order directing the redevelopment authority or the owner to show cause why further proceedings should not be expedited. Upon this application, the court may order that the hearings proceed and that any other steps be taken with all possible expedition. [PL 2021, c. 664, §3 (NEW).]

B. If any of the real property taken or to be taken is devoted to a public use, it may nevertheless be acquired, and the taking is effective, except that no real property belonging to the municipality or to any other government may be acquired without its consent and that real property belonging to a public utility corporation may not be acquired without the approval of the Public Utilities Commission or an officer or tribunal having regulatory power over that corporation. [PL 2021, c. 664, §3 (NEW).]

C. Any real property already acquired by the redevelopment authority may nevertheless be included within this taking for the purpose of acquiring any outstanding interests in the real property. [PL 2021, c. 664, §3 (NEW).]

[PL 2021, c. 664, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 664, §3 (NEW).

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