

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 305  
152nd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 397

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF DEPARTMENT OF TRANSPORTATION OWNERSHIP OF ABANDONED LAND ENCUMBERED BY THE DEPARTMENT'S RIGHT-OF-WAY EASEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 17 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 533. Establishment of Department ownership of abandoned land encumbered by Department right-of-way easements.

(a) Any land encumbered by a permanent easement for right-of-way purposes may be deemed to be owned in fee simple, by the Department, in the name of the State, when such land has been abandoned by the grantor(s) of such permanent easements, or by the grantor's successors in interest, provided that the following conditions are satisfied:

(1) The land is encumbered by a permanent easement, for right-of-way purposes, that was properly conveyed to the Department.

(2) A minimum of 40 years has passed since the granting of the permanent easement and during that period the Department has used the permanent easement in accordance with § 131 of this title.

(3) A minimum of 40 years has passed since the underlying fee simple ownership of the encumbered land was conveyed by a properly recorded instrument and neither the original grantor(s) nor the heirs or successors of the original grantor(s) can be located.

(4) Neither the original grantor(s) of the permanent easement nor the heirs or successors of the original grantor(s) are the fee simple owners of any land directly adjoining the land encumbered by the permanent easement.

(5) No action has been filed by any purported owner in any court of this State pertaining to determination of fee simple ownership of the land encumbered by the permanent easement.

(6) The land encumbered by the Department's permanent easement is part of a current Department project.

(b) The Department shall promulgate regulations to establish procedures for establishing its determination that the land encumbered by the permanent right-of-way easement has been abandoned and for recording its fee simple ownership of the land.

Approved July 17, 2024