SPONSOR: Rep. Osienski & Sen. Hansen
Reps. J. Johnson, Keeley, Mitchell; Sens. Ennis, Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 144
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE ACQUISITION OF REAL PROPERTY.

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

Section 1. Amend Title 17, §137(a) of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 137 Acquisition and sale of real property.

(a)(1) The Department, in the name of the State, may only acquire private or public property and property rights ~~for highway facilities and service roads~~ needed to provide public thoroughfares such as pathways, roads, streets, highways, or to preserve the traffic capacity in existing thoroughfares in accordance with §145(d) of this title, sidewalks, bus shelters, parking areas in support of public transit, maintenance yards and similar public transportation related facilities, including rights to access, air, view and light by gift, devise, purchase or in the exercise of the power of eminent domain, acquire the same by condemnation by proceeding in the manner prescribed in Chapter 61 of Title 10, be authorized by law to acquire such property or property rights only ~~in connection with highways and streets~~ for the purposes set forth in this section and within its jurisdiction. Property rights so acquired shall be in fee simple absolute or such lesser interest as the Department may deem necessary. Except as provided in paragraph (a)(2) of this section, no acquisition of real property or property rights shall be made without Department approved final right-of-way plans depicting the proposed acquisitions and that approval coming only after the project has been developed and plans prepared in accordance with all applicable governing laws, rules and regulations pertaining to the development of transportation projects. ~~This paragraph may not be utilized to acquire real property for a new corridor, expansion of existing corridors or as part of the Department's Corridor Capacity Preservation Program unless the approvals required pursuant to subsection (a)(2) of this section have been acquired.~~

(2) The acquisition of real property by the Department ~~after approval of the preferred alternative for new corridors or expansion of existing corridors by the Council on Transportation, or as a part of the Department's Corridor Capacity Preservation Program~~ in advance of final right-of-way plan approval, shall be reviewed by a committee consisting of the Secretary of the Department of Natural Resources and Environmental Control, the Secretary of the

HD : NSW : TEH : 1031490165 Released: 03/22/2018 04:55 PM
LC : MJC : RS : 5971490169

Department of Transportation, the Secretary of the Department of Agriculture, the Director of the Delaware Economic Development Office, the Governor's Chief of Staff, a member of the Senate designated by the President Pro Tempore of the Senate, a member of the House of Representatives designated by the Speaker of the House of Representatives, a member of the public designated by the President Pro Tempore of the Senate and a member of the public designated by the Speaker of the House of Representatives to determine the consistency of such action with the State's overall goals for land use planning. If it determines that the acquisition will be inconsistent with State planning goals, the committee may disapprove the acquisition.

(4) For the purposes of acquiring real property for pathways that go through dedicated open space in a recorded residential subdivision, where the proposed pathway is not adjacent to the existing right of way, the Department is not authorized to exercise its eminent domain power to acquire land for such pathway, unless a majority of the residents of the recorded residential subdivision vote to approve within 90 days of notice of its intent to exercise its eminent domain power by the Department. There will be one ballot per residence and the ballot may be cast by paper ballot, by proxy, by signing a petition, or electronically from a confirmed valid email address for a resident.