

CHAPTER 323

AN ACT concerning railroad rights of way and amending P.L.1967, c.282.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1967, c.282 (C.48:12-125.1) is amended to read as follows:

C.48:12-125.1 Railroad rights of way; acquisition; abandonment; sale, conveyance.

1. a. In order to permit the State and its political subdivisions to receive notice of, and be afforded an opportunity to acquire, by purchase or condemnation, railroad rights of way proposed to be abandoned, any railroad company which makes application to the Surface Transportation Board for authority to abandon any part of its right of way on which passenger or freight services are operated, or to abandon, sell, or lease any of its right of way over which services have previously been authorized for abandonment and title to such right of way currently remains with the railroad shall, within 10 days of making such application, serve notice thereof upon the State and upon each county and municipality in which any part of the right of way proposed for abandonment is located.

b. No sale or conveyance of any part of such right of way shall thereafter be made to any entity other than the State, or a county or municipality, for a period of 90 days from the date of approval by the Surface Transportation Board of the application for abandonment or from the date of service of the notice required by subsection a. of this section, whichever occurs later, unless prior thereto each governmental entity entitled to such notice shall have filed with the railroad company a written disclaimer of interest in acquiring all or any part of said right of way during the time period in which a railroad company is restricted from selling or conveying any part of a right of way pursuant to this subsection.

c. During the period of 90 days in which a railroad company is prohibited from selling or conveying any part of a right of way pursuant to subsection b. of this section, such railroad company shall negotiate in good faith for the sale or conveyance of the right of way with the State, or with any municipality or county in which the right of way proposed for abandonment is located and which expresses written interest in acquiring such right of way.

d. Any sale or conveyance of a right of way made after the expiration of the foregoing 90-day period to any entity, other than the State or a county or municipality in which any part of the right of way proposed for abandonment is located, shall be subject to the right of first refusal by any of the foregoing governmental entities, provided that the governmental entity has made an offer to purchase such right of way during the 90-day period and which offer was refused by the railroad company. The governmental entity shall have no less than 90 days from either the date of receipt from the railroad company of an offer to purchase the right of way by an entity, other than one of the foregoing governmental entities, or any other contract setting forth the terms and conditions governing the sale to which this right of first refusal is applicable or the effective date of abandonment as authorized by the Surface Transportation Board, including the expiration of any stays, whichever occurs later, to exercise this right of first refusal. Upon exercising this right of first refusal, the governmental entity shall purchase the right of way for the same amount agreed upon between the railroad company and the person to whom the company attempted to sell or convey such right of way pursuant to this subsection.

e. Any sale or conveyance made in violation of P.L.1967, c.282 (C.48:12-125.1 et seq.) shall be void.

As used in this act "right of way" means the roadbed of a line of railroad, not exceeding 100 feet in width, as measured horizontally at the elevation of the base of the rail, including the full embankment or excavated area, with slopes, slope ditches, retaining walls, or

foundations necessary to provide a width not to exceed 100 feet at the base of the rail, but not including tracks, appurtenances, ballast nor any structures or buildings erected thereon.

2. This act shall take effect immediately.

Approved January 18, 2010.