

**TRANSPORTATION CORRIDOR  
PRESERVATION AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Marda Dillree**

**This act modifies the Transportation Code to extend the period for which real property may be acquired for the preservation of a future transportation corridor from 20 years to 30 years in advance. This act requires the Department of Transportation to give the original grantor first right of refusal of the highest offer for unused parcels of real property acquired for transportation corridors and provides for notification and 90 days to accept the offer. This act makes technical changes.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**72-5-111**, as last amended by Chapters 34 and 216, Laws of Utah 2000

**72-5-402**, as enacted by Chapter 34, Laws of Utah 2000

**72-5-403**, as enacted by Chapter 34, Laws of Utah 2000

**72-5-404**, as enacted by Chapter 34, Laws of Utah 2000

**78-34-20**, as last amended by Chapter 269, Laws of Utah 1996

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **72-5-111** is amended to read:

**72-5-111. Disposal of real property.**

(1) (a) If the department determines that any real property or interest in real property, acquired for a highway purpose, is no longer necessary for the purpose, the department may lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.

(b) (i) Real property may be sold at private or public sale.

(ii) Except as provided in Subsection (1)(c) related to exchanges, proceeds of any sale shall be deposited with the state treasurer and credited to the Transportation Fund.

(c) If approved by the commission, real property or an interest in real property may be exchanged by the department for other real property or interest in real property, including

improvements, for highway purposes.

(2) (a) In the disposition of [~~land~~] real property at any private sale, first consideration shall be given to the original grantor or [~~his~~] the original grantor's heirs.

(b) [~~H~~] Notwithstanding the provisions of Section 78-34-20, if no portion of a parcel of real property acquired by the department is used for transportation purposes, then the original grantor or the grantor's heirs shall be given the opportunity to repurchase the parcel of real property at the department's original purchase price from the grantor.

(c) In accordance with Section 72-5-404, this Subsection (2)[~~(b)~~] does not apply [~~if the department purchase was initially requested by the grantor~~] to property rights acquired in proposed transportation corridors using funds from the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(3) (a) Any sale, exchange, or disposal of real property or interest in real property made by the department under this section, is exempt from the mineral reservation provisions of Title 65A, Chapter 6, Mineral Leases.

(b) Any deed made and delivered by the department under this section without specific reservations in the deed is a conveyance of all the state's right, title, and interest in the real property or interest in the real property.

Section 2. Section **72-5-402** is amended to read:

**72-5-402. Public purpose.**

(1) The Legislature finds and declares that the planning and preservation of transportation corridors is a public purpose, that the acquisition of public rights in private property for possible use as a transportation corridor [~~up to 20~~] years in advance is a public purpose, and that acquisition of public rights in private property for possible use as alternative transportation corridors is a public purpose, even if one or more of the transportation corridors is eventually not used for a public purpose, so long as reasonable evidence exists at the time of acquisition that the [~~corridor~~] transportation facility will be developed within [~~20 years~~] the time period established under this part.

(2) The Legislature finds and declares that the acquisition of private property rights for

the preservation of transportation corridors should be done on a voluntary basis and not by the use of eminent domain powers.

Section 3. Section **72-5-403** is amended to read:

**72-5-403. Transportation corridor preservation powers.**

(1) The department, counties, and municipalities may:

(a) act in cooperation with one another and other government entities to promote planning for and enhance the preservation of transportation corridors and to more effectively use the monies available in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117;

(b) undertake transportation corridor planning, review, and preservation processes; and

(c) acquire fee simple rights and other rights of less than fee simple, including easement and development rights, or the rights to limit development, including rights in alternative transportation corridors, and to make these acquisitions up to [20] a projected 30 years in advance of using those rights in actual transportation facility construction.

(2) In addition to the powers described under Subsection (1), counties and municipalities may:

(a) limit development for transportation corridor preservation by land use regulation and by official maps; and

(b) by ordinance prescribe procedures for approving limited development in transportation corridors until the time transportation facility construction begins.

Section 4. Section **72-5-404** is amended to read:

**72-5-404. Disposition of excess property rights.**

If the department has acquired property rights in land in proposed transportation corridors, and some or all of that land is eventually not used for the proposed transportation corridors, the department shall dispose of the property rights in accordance with the provisions of Section [~~72-5-111~~] 78-34-20.

Section 5. Section **78-34-20** is amended to read:

**78-34-20. Sale of property acquired by eminent domain.**

(1) As used in this section, "condemnation or threat of condemnation" means:

(a) acquisition through an eminent domain proceeding; or

(b) an official body of the state or a subdivision of the state, having the power of eminent domain, has specifically authorized the use of eminent domain to acquire the real property.

(2) If the state or one of its subdivisions, at its sole discretion, declares real property that is acquired through condemnation or threat of condemnation to be surplus real property, [not developed for the intended use,] it may not sell the real property on the open market unless [the following conditions are met]:

~~[(1) the real property is not property acquired by condemnation, or by threat of condemnation, which, as used in this section, condemnation or threat of condemnation means acquisition through an eminent domain proceeding or that an official body of the state or a subdivision of the state, having the power of eminent domain, has specifically authorized the use of eminent domain to acquire the real property; or]~~

~~[(2)] (a) the real property has been offered for sale to the [person or entity from whom the state or one of its subdivisions acquired it] original grantor, at the highest offer made to the state or one of its subdivisions with first right of refusal being given to the original grantor;~~

~~(b) the [person or entity] original grantor expressly waived in writing the first right of refusal on the offer or failed to accept the offer within 90 days after notification by registered mail to the last-known address; and~~

~~(c) neither the state nor the subdivision of the state selling the property is involved in the rezoning of the property or the acquisition of additional property to enhance the value of the real property to be sold.~~

(3) This section shall only apply to property acquired after July 1, 1983.