§ 136-19. Acquisition of land and deposits of materials; condemnation proceedings; federal parkways.

(a) The Department of Transportation is vested with the power to acquire either in the nature of an appropriate easement or in fee simple such rights-of-way and title to such land, gravel, gravel beds or bars, sand, sand beds or bars, rock, stone, boulders, quarries, or quarry beds, lime or other earth or mineral deposits or formations, and such standing timber as it may deem necessary and suitable for transportation infrastructure construction, including road construction, maintenance, and repair, and the necessary approaches and ways through, and a sufficient amount of land surrounding and adjacent thereto, as it may determine to enable it to properly prosecute the work, by purchase, donation, or condemnation, in the manner hereinafter set out. If the Department of Transportation acquires by purchase, donation, or condemnation part of a tract of land in fee simple for highway right-of-way as authorized by this section and the Department of Transportation later determines that the property acquired for transportation infrastructure, including highway right-of-way, or a part of that property, is no longer needed for infrastructure right-of-way, then the Department shall give first consideration to any offer to purchase the property made by the former owner. The Department may refuse any offer that is less than the current market value of the property, as determined by the Department. Unless the Department acquired an entire lot, block, or tract of land belonging to the former owner, the former owner must own the remainder of the lot, block, or tract of land from which the property was acquired to receive first consideration by the Department of their offer to purchase the property.

(b) Notwithstanding the provisions of subsection (a), if the Department acquires the property by condemnation and determines that the property or a part of that property is no longer needed for highway right-of-way or other transportation projects, the Department of Transportation may reconvey the property to the former owner upon payment by the former owner of the full price paid to the owner when the property was taken, the cost of any improvements, together with interest at the legal rate to the date when the decision was made to offer the return of the property. Unless the Department acquired an entire lot, block, or tract of land belonging to the former owner, the former owner must own the remainder of the lot, block, or tract of land from which the property was acquired to purchase the property pursuant to this subsection.

(c) The requirements of this section for reconveying property to the former owner, regardless of whether such property was acquired by purchase, donation, or condemnation, shall not apply to property acquired outside the right-of-way as an "uneconomic remnant" or "residue".

(d) The Department of Transportation is also vested with the power to acquire such additional land alongside of the rights-of-way for transportation projects, including roads as in its opinion may be necessary and proper for the protection of the transportation projects, including roads and roadways, and such additional area as may be necessary as by it determined for approaches to and from such material and other requisite area as may be desired by it for working purposes. The Department of Transportation may, in its discretion, with the consent of the landowner, acquire in fee simple an entire lot, block or tract of land, if by so doing, the interest of the public will be best served, even though said entire lot, block or tract is not immediately needed for right-of-way purposes.

(e) Notwithstanding any other provisions of law or eminent domain powers of utility companies, utility membership corporations, municipalities, counties, entities created by political subdivisions, or any combination thereof, and in order to prevent undue delay of highway projects because of utility conflicts, the Department of Transportation may condemn or acquire property in fee or appropriate easements necessary to provide transportation project

rights-of-way for the relocation of utilities when required in the construction, reconstruction, or rehabilitation of a State transportation project. The Department of Transportation shall also have the authority, subject to the provisions of G.S. 136-19.5(a) and (b), to, in its discretion, acquire rights-of-way necessary for the present or future placement of utilities as described in G.S. 136-18(2).

(f) Whenever the Department of Transportation and the owner or owners of the lands, materials, and timber required by the Department of Transportation to carry on the work as herein provided for, are unable to agree as to the price thereof, the Department of Transportation is hereby vested with the power to condemn the lands, materials, and timber and in so doing the ways, means, methods, and procedure of Article 9 of this Chapter shall be used by it exclusively.

(g) The Department of Transportation shall have the same authority, under the same provisions of law provided for construction of State transportation projects, for acquirement of all rights-of-way and easements necessary to comply with the rules and regulations of the United States government for the construction of federal parkways and entrance roads to federal parks in the State of North Carolina. The acquirement of a total of 125 acres per mile of said parkways, including roadway and recreational, and scenic areas on either side thereof, shall be deemed a reasonable area for said purpose. The right-of-way acquired or appropriated may, at the option of the Department of Transportation, be a fee-simple title. The said Department of Transportation is hereby authorized to convey such title so acquired to the United States government, or its appropriate agency, free and clear of all claims for compensation. All compensation contracted to be paid or legally assessed shall be a valid claim against the Department of Transportation, payable out of the State Highway Fund. Any conveyance to the United States Department of Interior of land acquired as provided by this section shall contain a provision whereby the State of North Carolina shall retain concurrent jurisdiction over the areas conveyed. The Governor is further authorized to grant concurrent jurisdiction to lands already conveyed to the United States Department of Interior for parkways and entrances to parkways.

(h) The action of the Department of Transportation heretofore taken in the acquirement of areas for the Blue Ridge Parkway in accordance with the rules and regulations of the United States government is hereby ratified and approved and declared to be a reasonable exercise of the discretion vested in the said Department of Transportation in furtherance of the public interest.

(i) When areas have been tentatively designated by the United States government to be included within a parkway, but the final survey necessary for the filing of maps as provided in this section has not yet been made, no person shall cut or remove any timber from said areas pending the filing of said maps after receiving notice from the Department of Transportation that such area is under investigation; and any property owner who suffers loss by reason of the restraint upon his right to use the said timber pending such investigation shall be entitled to recover compensation from the Department of Transportation for the temporary appropriation of his property, in the event the same is not finally included within the appropriated area, and the provisions of this section may be enforced under the same law now applicable for the adjustment of compensation in the acquirement of rights-of-way on other property by the Department of Transportation. (1921, c. 2, s. 22; 1923, c. 160, s. 6; C.S., s. 3846(bb); 1931, c. 145, s. 23; 1933, c. 172, s. 17; 1935, c. 2; 1937, c. 42; 1949, c. 1115; 1953, c. 217; 1957, c. 65, s. 11; 1959, c. 1025, s. 1; cc. 1127, 1128; 1963, c. 638; 1971, c. 1105; 1973, c. 507, ss. 5, 11; 1977, c. 464, s. 7.1; 1989 (Reg. Sess., 1990), c. 962, s. 2; 1991 (Reg. Sess., 1992), c. 979, s. 1; 2009-266, s. 7.)