



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1235

Introduced 2/18/2005, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

605 ILCS 5/9-127

from Ch. 121, par. 9-127

Amends the Illinois Highway Code. Provides that a highway authority may vacate a highway or part of a highway established by common law dedication, and may convey or sell its interest in the highway in the prescribed manner, if evidence of the dedication is provided in the form of an affidavit of maintenance from the highway commissioner. Provides that an affidavit from the commissioner indicating that the highway authority has maintained the road for 20 years or longer is conclusive evidence of the highway authority's fee interest. Provides that a highway authority may sell its interest in a vacated highway to any buyer in exchange for funds to be used for road purposes (as well as providing that an authority may convey its interest to a qualified township road district). Effective immediately.

LRB094 09728 DRH 39984 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Highway Code is amended by changing
5 Section 9-127 as follows:

6 (605 ILCS 5/9-127) (from Ch. 121, par. 9-127)

7 Sec. 9-127. (a) Except as provided in subsections (b) and
8 (c) and in cases where the deed, or other instrument,
9 dedicating a highway or part thereof, has expressly provided
10 for a specific devolution of the title thereto upon the
11 abandonment or vacation thereof, whenever any highway or any
12 part thereof is vacated under or by virtue of any Act of this
13 State or by the highway authority authorized to vacate the
14 highway, the title to the land included within the highway or
15 part thereof so vacated, vests in the then owners of the land
16 abutting thereon, in the same proportions and to the same
17 extent, as though the highway had been dedicated by a common
18 law plat (as distinguished from a statutory plat) and as though
19 the fee of the highway had been acquired by the owners as a
20 part of the land abutting on the highway except, however, such
21 vacation shall reserve to any public utility with facilities
22 located in, under, over or upon the land an easement for the
23 continued use, if any, by such public utility.

24 (b) When any highway authority determines to vacate a
25 highway under its jurisdiction, or part thereof, established
26 within a subdivision by a statutory plat, that authority may
27 vacate such highway and convey the highway authority's interest
28 in such highway to any bona fide organization of property
29 owners of the subdivision which (1) is so organized as to be
30 able to receive, hold and convey real property, (2) has
31 petitioned the highway authority for the vacation of the
32 highway, and (3) undertakes to develop the property for the use

1 and benefit of the public. If the association abandons the
2 property, it passes as provided in subsection (a).

3 (c) When any highway authority determines to vacate a
4 highway or part of a highway under its jurisdiction established
5 within a subdivision by a statutory plat, that authority may
6 vacate the highway and convey the highway authority's interest
7 in the highway to any township road district which (1) has
8 petitioned the highway authority for the vacation of the
9 highway and (2) undertakes to develop the property as a bike
10 path or alley for the use and benefit of the public. The
11 authority also may sell the highway authority's interest in the
12 highway to any buyer in exchange for funds to be added to the
13 highway authority's general budget for road purposes. If the
14 property is subsequently incorporated within a municipality,
15 the township road district may transfer its interest to the
16 municipality. If the township road district or municipality
17 abandons the property, it passes as provided in subsection (a).

18 A highway authority also may vacate a highway or part of a
19 highway under its jurisdiction established by common law
20 dedication, if evidence of the dedication is provided, in the
21 form of an affidavit of maintenance from the highway
22 commissioner, indicating that the highway authority has
23 maintained the road for a period of 20 years or longer. An
24 affidavit of maintenance as described in this subsection (c)
25 constitutes conclusive evidence of the authority's fee
26 interest in the highway and allows the authority to sell or
27 otherwise convey that interest as provided in this subsection
28 (c).

29 (Source: P.A. 93-321, eff. 7-23-03.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.