

**§7105. Railroads; lease or purchase of certain railroad lines by the Department of Transportation**

**1. Definition of term "railroad line."** Unless otherwise defined in this section, the term "railroad line" or "lines" shall be construed to mean the right-of-way, track, track appurtenances, ties, bridges, station houses and other appurtenant structures.

[PL 1989, c. 398, §7 (NEW).]

**2. Temporary lease and contracts for continuation of service on certain railroad lines.** The Department of Transportation may enter into a contract with a railroad and its duly constituted officers, trustees or owners for the temporary lease of railroad lines or any part of a railroad line, located in the State, owned or otherwise lawfully controlled by the railroad for which abandonment has been authorized by a duly constituted authority, state or federal, when in the judgment of the Department of Transportation the preservation of the railroad line or lines is necessary to protect the public interest. When in the judgment of the Department of Transportation the economic well-being of this State, or a significant portion of the State, will be impaired by the discontinuance of rail service over the railroad line or lines that have been authorized for abandonment, the department may contract for the continued operation of rail service over any line or lines on a temporary basis under rules to be prescribed by the department after notice and hearing at which interested parties have an opportunity to express their views, and on terms and conditions as the department and the owner of the railroad may agree. The leases authorized may be made to cover the right-of-way only or may cover the line intact, including the track, track appurtenances, ties, bridges, station houses and other necessary structures. Contracts for continuation of rail service may be made to include the lease of the line and may provide for service on less than a daily basis. The department shall report to the next session of the Legislature with a recommendation for disposition of the leased or subsidized lines.

[PL 1989, c. 398, §7 (NEW).]

**3. Purchase or lease of certain railroad lines.** The Department of Transportation may purchase or lease railroad lines or any part of a railroad line or any other property located in the State, owned or otherwise lawfully controlled by any railroad when, in the judgment of the department, the purchase or lease of those railroad lines or property is necessary to protect the public interest.

A. Before dismantling any track that results in a cessation of rail service upon all or part of a railroad line, or offering any railroad property for sale, or upon the abandonment of service along all or a portion of a railroad line, the department must be given the first option to lease or purchase, on just and reasonable terms, the railroad line, any part of the railroad line or other property. In the event that a lease is negotiated for the rights-of-way, the department shall consult with municipal officials and officers in the municipalities affected by the abandonment of service along the line to determine the need for preserving the rights-of-way along the abandoned portion of the line for rail transportation. If the department finds that the welfare of the State would be significantly and adversely affected by the loss of the line for railroad transportation purposes, the department shall seek to negotiate the purchase of the abandoned portion of the line. In making this determination, the department shall consider, among other criteria considered significant by the department, future economic development activities and opportunities in the area served by the abandoned railroad service. In addition, the department shall consult with the Department of Economic and Community Development and the Department of Agriculture, Conservation and Forestry in making the determination required in this section.

The department shall, in good faith, seek to lease the railroad rights-of-way until it finds that the preservation of the rights-of-way is not necessary for the welfare of the State or until the voters of the State approve or disapprove, at a statewide election, the issue of bonds to purchase the rights-of-way along the abandoned portion of the line.

Nothing in this paragraph may require the department to lease or purchase the railroad rights-of-way to an entire railroad line or any portion of the line for which railroad service has been abandoned if the railroad corporation owner does not intend to sell, lease or in any other way dispose of the rights-of-way by which railroad service could be easily restored along the abandoned service portion of the line. [PL 2011, c. 655, Pt. JJ, §10 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

B. The abandonment of service shall not mean or imply that the rights-of-way on a railroad line have been abandoned. In the event that the railroad, any person, firm or corporation, or any agency shows interest in the eventual restoration of service, the rights-of-way shall not be deemed abandoned.

Since it is in the best interest of the State to retain the rights-of-way intact, this paragraph shall apply to all existing and future rights-of-way created prior to or following September 30, 1989. [PL 1989, c. 398, §7 (NEW); PL 1989, c. 600, Pt. A, §§11, 12 (AMD); PL 1989, c. 878, Pt. G, §3 (AMD).]

C. Whenever the department acquires railroad lines, to hold and to manage for future railroad uses, those lines shall not be considered abandoned for railroad purposes. The commissioner shall periodically review the need to hold those lines for future railroad uses. [PL 1989, c. 398, §7 (NEW).]

[PL 2011, c. 655, Pt. JJ, §10 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

**4. Cooperation, acceptance and use of federal, state, local or private funds.** The Department of Transportation may accept, for the State, federal funds that may be apportioned under the United States Regional Rail Reorganization Act of 1973, Public Law 93-236 as amended and supplemented, other federal funds, state funds and such municipal funds and private funds as may be available; to act for the State, in conjunction with the representatives of the Federal Government, municipal governments and private groups having a direct interest, in all matters relating to the acquisition, rehabilitation, construction or lease of railroad line or lines in the State and contracts for rail service continuation over railroad lines as provided in this section.

[PL 1989, c. 398, §7 (NEW).]

**5. Department to lease, purchase and dispose of operating equipment.** The Department of Transportation may lease, purchase and dispose of railroad operating equipment used on rail lines acquired or leased pursuant to this chapter. The department may provide financial assistance and may lease or sell railroad operating equipment to short line operators providing rail service to those rail lines when determined to be in the best interest of the State.

[PL 1989, c. 791, §3 (NEW).]

#### SECTION HISTORY

PL 1989, c. 398, §7 (NEW). PL 1989, c. 600, §§A11,12 (AMD). PL 1989, c. 626 (AMD). PL 1989, c. 791, §3 (AMD). PL 1989, c. 878, §G3 (AMD). PL 2011, c. 655, Pt. JJ, §10 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV).

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