

CHAPTER 230

SITES FOR PUBLIC WAREHOUSES, ELEVATORS, AND COAL SHEDS

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**230.01 USE OF RIGHT OF WAY FOR WAREHOUSE.** Any person shall have the right to use, as a site for a public warehouse, a proper portion of the right of way of any railroad, within the outside switches at any station or siding, upon the payment of reasonable compensation.

[R. L. s. 2106] (5098)

**230.02 APPLICATION.** Whoever wishes to exercise such right may make written application to the person or company operating such railroad for such site, describing it, stating the size and capacity of the proposed warehouse, the station or siding at which it is to be built, the time for which such site is desired, and the amount of compensation the applicant is willing to pay.

[R. L. s. 2107] (5099)

**230.03 ACCEPTANCE OR REJECTION OF OFFER.** Within ten days after the receipt of such application, the operator of such railroad shall notify the applicant in writing of his acceptance or rejection of the compensation offered. If he fail so to do, he shall be deemed to have accepted the same. Upon acceptance and payment or tender of the compensation, the applicant shall thereupon be entitled to the site described.

[R. L. s. 2108] (5100)

**230.04 PROCEEDINGS ON REJECTION.** If the offer be rejected, and the parties fail to agree on compensation, the applicant may present to and file in the district court of the county a verified petition, setting forth the making of the application, with a copy thereof, the compensation offered, its rejection, and the failure of the parties to agree. The court shall thereupon by order fix a time and place for hearing such petition, not more than 30 days from its presentation. Such order shall be served as a summons in the court is served, at least 20 days before the time set for such hearing, which service shall give the court jurisdiction of both person and property.

[R. L. s. 2109] (5101)

**230.05 TRIAL.** If such hearing be set at a time other than a term of court where a petit jury is in attendance, the court, unless a jury be waived, shall order the selection of 24 jurors from the list returned by the county board in the manner provided for drawing jurors for a general term of such court, and the case shall be tried as other civil actions, and the compensation to be paid shall be assessed, both as a gross sum and an annual rental. The respondent shall elect either to receive the gross sum or the annual rental, and, if he fail to elect, the petitioner may do so, and judgment shall be entered accordingly.

[R. L. s. 2110] (5102)

**230.06 APPEAL.** Either party may appeal as from a judgment in a civil action within 30 days from the entry of judgment; but such appeal shall not stay the right of the petitioner to use the site designated, if the petitioner shall give bond with sureties approved by the court, in double the gross sum or annual rental fixed by the judgment, conditioned to pay such sum or rental, and abide and satisfy any judgment the supreme court may render in the premises.

[R. L. s. 2111] (5103)

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**230.07 COSTS.** If the amount fixed by the final judgment be more than that offered in the application, the respondent shall recover costs and disbursements as in a civil action; otherwise, the petitioner.

[*R. L. s. 2112*] (*5104*)

**230.08 ABANDONMENT.** If the compensation, as finally fixed or agreed upon, be not paid within 30 days after the amount is finally settled; or, if the applicant shall not begin the erection of such warehouse within two months, and complete the same and open it for business as a public warehouse within five months, after designation of the site, the application shall be deemed abandoned.

[*R. L. s. 2113*] (*5105*)

**230.09 RAILROAD RIGHT OF WAY MAY BE USED FOR WAREHOUSES.** Any person, firm, or corporation shall have the right to use as a site for a public elevator, warehouse, coal shed, ice-house, buying station, selling station, or weighing scales or other instrumentalities for weighing live stock, or use ground space for receiving, storing, or distributing any article of commerce, transported or to be transported, a proper portion of the right of way of any railroad within the outside switches at any station or siding upon the payment of reasonable compensation therefor.

[*1921 c. 140 s. 1; 1925 c. 177 s. 1*] (*5106*)

**230.10 PROCEDURE UPON DISAGREEMENT WITH RAILROAD.** Any such person, firm, or corporation desiring to construct, operate or use a public elevator, warehouse, coal shed, ice-house, buying station, selling station, or weighing scales or other instrumentalities for weighing live stock, or use ground space for receiving, storing, or distributing any article of commerce transported or to be transported, or to continue the use and operation of any such buildings, structures, instrumentalities, or ground space where the same are already constructed or used, upon such right of way of any railroad, if unable to agree with the person, firm, or corporation operating such railroad upon the site for such buildings, structures, instrumentalities, or ground space or the compensation to be paid therefor, may file a verified complaint with the commission setting forth the facts and requesting it to establish the location of the site for such buildings, structures, instrumentalities, or ground space or the compensation to be paid therefor, or both, as the case may be. Such complaint shall be served upon such railroad company and 20 days, exclusive of the day of such service, shall be allowed for answer. After the time for answering has expired the commission shall fix the time and place for a hearing and give at least ten days' notice thereof to both parties.

[*1921 c. 140 s. 2; 1925 c. 177 s. 2*] (*5107*)

**230.11 HEARING; ORDER.** The hearing shall be held pursuant to such notice and thereafter the commission, if it finds that the complainant is entitled thereto, may make an order establishing the location of the site for such buildings, structures, instrumentalities, or ground space, at a suitable place within the outside switches at any station, or siding, and fixing the reasonable annual compensation to be paid therefor. Where such buildings, structures, instrumentalities, or ground space are already established or used upon such right of way and the compensation therefor is not fixed by order of the commission or by contract, the commission may fix the reasonable compensation to be paid for the occupation thereof.

[*1921 c. 140 s. 3*] (*5108*)