



Ohio Revised Code

Section 5501.45 Conveyance of lands not needed for highway or recreation purposes.

Effective: June 30, 2003

Legislation: House Bill 87 - 125th General Assembly

(A) The director of transportation may convey or transfer the fee simple estate or any lesser estate or interest in, or permit the use of, for such period as the director shall determine, any lands owned by the state and acquired or used for the state highway system or for highways or in connection with highways or as incidental to the acquisition of land for highways, provided that the director determines, after consulting with the director of natural resources, that the property or interest conveyed or made subject to a permit to use is not needed by the state for highway or recreation purposes. Such conveyance, transfer, or permit to use may be to the grantee or permittee or to the grantee or permittee and the grantee's or its successors and assigns and shall be of such portion of such lands as the director shall determine, which shall be described in the deed, transfer, or other instrument or conveyance and in any permit to use, and may include or be limited to areas or space on, above, or below the surface, and also may include the grant of easements or other interests in any such lands for use by the grantee for buildings or structures or for other uses and purposes, and for the support of buildings or structures constructed or to be constructed on or in the lands or areas or space conveyed or made subject to a permit to use.

(B) Whenever pursuant to this section separate units of property are created in any lands, each unit shall for all purposes constitute real property and shall be deemed real estate within the meaning of all provisions of the Revised Code, shall be deemed to be a separate parcel for all purposes of taxation and assessment of real property, and no other unit or other part of such lands shall be charged with the payment of such taxes and assessments.

(C) With respect to any portion of the state highway system not owned in fee simple by the state, the director may permit the use of any portion thereof in perpetuity or for such period of time as the director shall specify, including areas or space on, above, or beneath the surface, together with rights for the support of buildings or structures constructed or to be constructed thereon or therein, provided that the director determines that the portion made subject to a right to use is not needed by the state for highway purposes.



(D) The director shall require, as either a condition precedent or a condition subsequent to any conveyance, transfer, or grant or permit to use, that the plans and specifications for all such buildings or structures and the contemplated use thereof, be approved by the director as not interfering with the use of the state highway system and not unduly endangering the public. The director may require such indemnity agreements in favor of the director and the public as shall be lawful and as shall be deemed necessary by the director. The director shall not unreasonably withhold approval of such plans, specifications, and contemplated use.

(E)(1) All such conveyances, transfers, grants, or permits to use that are made to state institutions, agencies, commissions, instrumentalities, political subdivisions, or taxing districts of the state, to institutions receiving financial assistance from the state, or to the federal government shall be upon such consideration as shall be determined by the director to be fair and reasonable, without competitive bidding. Conveyances of real property under this section shall be by deed executed by the director and shall be in the form prescribed by the attorney general. Sections 5301.13 and 5515.01 of the Revised Code, relating to the sale or use of public lands, shall not apply to conveyances, grants, transfers, or permits to use made pursuant to this division. An institution receiving financial assistance from the state shall provide the director with acceptable documentary evidence of the state loan, grant, or other state financial assistance. The director shall keep a record of all such conveyances.

(2) As used in this division, "institution receiving financial assistance from the state" includes any public or private organization, especially one of a charitable, civic, or educational character, in receipt of a state loan, grant, or other type of state financial assistance.

(F) Except as provided in division (E) of this section, all conveyances, grants, or permits to use that are made to private persons, firms, or corporations shall be conducted in accordance with the procedure set forth in section 5501.311 or 5501.34 of the Revised Code, as applicable.

(G) In any case where the director has acquired or acquires, for the state highway system, easements in or permits to use areas or space on, above, or below the surface, the director may extinguish them in whole or in part or subordinate them to uses by others, provided that the director determines that the easements or permit to use so extinguished or subordinated are not needed by the state for



highway purposes. The director shall make any extinguishments to the current underlying fee owner of record at no cost.

(H) No conveyance, transfer, easement, lease, permit, or other instrument executed pursuant to the authorization given by this section shall prejudice any right, title, or interest in any lands affected thereby which at the date thereof existed in any person, firm, or corporation, other than the state and other than members of the general public having no specific rights in said lands, unless the right, title, or interest was expressly subject to the right of the state to make such conveyance or transfer, grant such right, or execute such instrument, and unless the state by such instrument expressly exercises such right, nor shall any public utility be required to move or relocate any of its facilities that may be located in or on the areas described in any such conveyance, transfer, easement, lease, permit, or other instrument.