

# **RIGHT-OF-WAY FOR INFRASTRUCTURE PROJECTS**

[Republic Act No. 8974](#)

[Republic Act No. 8975](#)

**AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION  
FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER  
PURPOSES**

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*Approved:* November 7, 2000

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# REPUBLIC ACT NO. 8974

**Section 1.** *Declaration of Policy.* - Article III, Section 9 of the Constitution states that private property shall not be taken for public use without just compensation. Towards this end, the State shall ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation.

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**Section 2. *National Government Projects.*** - The term "*national government projects*" shall refer to all national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair, and rehabilitation, regardless of the source of funding.

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**Section 3.** *Modes of Accounting Real Property.* - The government may acquire real property needed as right-of-way, site or location for any national government infrastructure project through donation, negotiated sale, expropriation or any other mode of acquisition as provided by law.

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**Section 4. Guidelines for Expropriation Proceedings.** - Whenever it is necessary to acquire real property for the right-of-way or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;

(b) In provinces, cities, municipalities and other areas where there is no zonal valuation, the BIR is hereby mandated within the period of sixty (60) days from the date of the expropriation case, to come up with a zonal valuation for said area; and

(c) In case the completion of a government infrastructure project is of utmost urgency and importance, and there is no existing valuation of the area concerned, the implementing agency shall immediately pay the owner of the property its proffered value taking into consideration the standards prescribed in Section 5 hereof.

Upon compliance with the guidelines above-mentioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a writ of possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned.

In the event that the owner of the property contests the implementing agency's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.

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**Section 5.** *Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale.* - In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

- (a) The classification and use for which the property is suited;
- (b) The developmental costs for improving the land;
- (c) The value declared by the owners;
- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvement on the land and for the value of improvements thereon;
- (f) This size, shape or location, tax declaration and zonal valuation of the land;
- (g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- (h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

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**Section 6.** *Guidelines for Negotiated Sale.* - Should the implementing agency and the owner of the property agree on a negotiated sale for the acquisition of right-of-way, site or location for any national government infrastructure project, the standards prescribed under Section 5 hereof shall be used to determine the fair market value of the property, subject to review and approval by the head of the agency or department concerned.

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**Section 7. *Valuation of Improvements and/or Structures.*** - The Department of Public Works and Highways and other implementing agencies concerned, in coordination with the local government units concerned in the acquisition of right-of-way, site or location for any national government infrastructure project, are hereby mandated to adopt within sixty (60) days upon approval of this Act, the necessary implementing rules and regulations for the equitable valuation of the improvements and/or structures on the land to be expropriated.

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**Section 8.** *Ecological and Environmental Concerns.* - In cases involving the acquisition of right-of-way, site or location for any national government infrastructure project, the implementing agency shall take into account the ecological and environmental impact of the project. Before any national government project could be undertaken, the agency shall consider environmental laws, land use ordinances and all pertinent provisions of Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991.

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**Section 9. Squatter Relocation.** - The government through the National Housing Authority, in coordination with the local government units and implementing agencies concerned, shall establish and develop squatter relocation sites, including the provision of adequate utilities and services, in anticipation of squatters that have to be removed from the right-of-way or site of future infrastructure projects. Whenever applicable, the concerned local government units shall provide and administer the relocation sites.

In case the expropriated land is occupied by squatters, the court shall issue the necessary "*Writ of Demolition*" for the purpose of dismantling any and all structures found within the subject property. The implementing agency shall take into account and observe diligently the procedure provided for in Sections 28 and 29 of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992. Funds for the relocation sites shall come from appropriations for the purpose under the General Appropriations Act, as well as from appropriate infrastructure projects funds of the implementing agency concerned.

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**Section 10.** *Appropriations for Acquisitions of Right-of -Way, Site or Location for Any National Government Infrastructure Project in Advance of Project Implementation.* - The government shall provide adequate appropriations that will allow the concerned implementing agencies to acquire the required right-of-way, site or location for any national government infrastructure project.

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**Section 11. Sanctions.**- Violation of any provisions of this Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture of benefits.

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**Section 12. *Rules and Regulations.*** - A committee composed of the Secretary of the Department of Public Works and Highways as chairperson, and the secretaries of the Department of Transportation and Communications, the Department of Energy, and the Department of Justice, and the presidents of the leagues of provinces, cities and municipalities as members shall prepare the necessary rules and regulations for the proper implementation of this Act within sixty (60) days from its approval.

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**Section 13. *Separability Clause.*** - If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected shall continue to be in full force and effect.

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**Section 14. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

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**Section 15. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

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**REPUBLIC ACT NO. 8975**

**AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION OF GOVERNMENT INFRASTRUCTURE PROJECTS BY PROHIBITING LOWER COURTS FROM ISSUING TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS OR PRELIMINARY MANDATORY INJUNCTIONS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES.**

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*Approved:* November 7, 2000

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# REPUBLIC ACT NO. 8975

**Section 1.** *Declaration of Policy.* - Article XII, Section 6 of the Constitution states that the use of property bears a social function, and all economic agents shall contribute to the common good.

Towards this end, the State shall ensure the expeditious and efficient implementation and completion of government infrastructure projects to avoid unnecessary increase in construction, maintenance and/or repair costs and to immediately enjoy the social and economic benefits therefrom.

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# REPUBLIC ACT NO. 8975

## **Section 2. *Definition of Terms.* -**

(a) "National government projects" shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build Operate and Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.

(b) "Service contracts" shall refer to infrastructure contracts entered into by any department, office or agency of the national government with private entities and non-government organizations for services related or incidental to the functions and operations of the department, office or agency concerned.

Upon compliance with the guidelines above-mentioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a writ of possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned.

In the event that the owner of the property contests the implementing agency's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.

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**Section 3. Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions.** - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private, acting under the governments direction, to restrain, prohibit or compel the following acts:

- (a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;
- (b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;
- (c) Commencement, prosecution, execution, implementation, operation of any such contract or project;
- (d) Termination or rescission of any such contract/project; and
- (e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project.

This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise.

The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought. If after due hearing the court finds that the award of the contract is null and void, the court may, if appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the same, without prejudice to any liability that the guilty party may incur under existing laws.

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**Section 4.** *Nulity of Writs and Orders.* - Any temporary restraining order, preliminary injunction or preliminary mandatory injunction issued in violation of Section 3 hereof is void and of no force and effect.

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**Section 5.** *Designation of Regional Trial Courts.* - The Supreme Court may designate regional trial courts to act as commissioners with the sole function of receiving facts of the case involving acquisition, clearance and development of right-of-way for government infrastructure projects. The designated regional trial court shall within thirty (30) days from the date of receipt of the referral, forward its findings of facts to the Supreme Court for appropriate action.

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**Section 6. *Penal Sanction.*** - In addition to any civil and criminal liabilities he or she may incur under existing laws, any judge who shall issue a temporary restraining order, preliminary injunction or preliminary mandatory injunction in violation of Section 3 hereof, shall suffer the penalty of suspension of at least sixty (60) days without pay.

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**Section 7. *Issuance of Permits.*** - Upon payment in cash of the necessary fees levied under Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991, the governor of the province or mayor of a highly urbanized city shall immediately issue the necessary permit to extract sand, gravel and other quarry resources needed in government projects. The issuance of said permit shall consider environmental laws, land use ordinances and the pertinent provisions of the Local Government Code relating to environment.

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**Section 8. *Separability Clause.*** - If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be of full force and effect.

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**Section 9. *Repealing Clause.*** - All laws, decrees, including Presidential Decree Nos. 605, 1818 and Republic Act No. 7160, as amended, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

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# REPUBLIC ACT NO. 8975

**Section 10. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

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