**§ 1007. Acquisition of property.** If, for any of the purposes hereunder, including temporary construction purposes and the making of additions or improvements, the authority shall find it necessary or convenient for it to acquire any real property as herein defined, whether for immediate or future use, then the authority may find and determine that such property is required for a public use, and upon such due determination, such property shall be and shall be deemed to be required for such public use until otherwise determined by the authority and with the exceptions hereinafter specifically noted such determination of fact shall not be affected by the fact that such property has theretofore been taken for, or is then devoted to, a public use; but the public use in the hands or under the control of the authority shall be deemed superior to the public use in the hands of any other person, association or corporation. If the authority is unable to agree for the acquirement of any such property, or if the owner thereof shall be incapable of disposing of the same, or if, after diligent search and inquiry, the name and residence of any such owner cannot be ascertained, or if any such property has been acquired or attempted to be acquired and title or other rights therein have been found to be invalid or defective, the authority may acquire such property by condemnation under and pursuant to the provisions of this title.

1. When any real property within this state is sought to be acquired by condemnation, the authority shall cause a survey and map to be made thereof, and shall cause such survey and map to be filed in its office. There shall be annexed to such survey and map a certificate executed by the chief engineer of the authority, or by such other officer or employee as may be designated by the trustees, stating that the property or interest therein described in such survey and map are necessary for its purposes.

2. Upon filing such survey and map the authority shall petition a special term of the supreme court held in the judicial district in which the property is located, or the county court of any county where such property is located, for the condemnation of such property or interest therein, as have not been otherwise acquired. Such petition shall be generally in the form prescribed by section four of the condemnation

law, so far as consistent herewith. Such petition, together with a notice of pendency of the proceeding, shall be filed in the office of the county clerk of such county and shall be indexed and recorded as provided by law. A copy of such petition together with a notice of the presentation thereof to such special term of the supreme court or to the county court shall be served upon the owners as provided in sections five and six of the condemnation law. The authority may cause a duplicate original affidavit of the service thereof to be recorded in the books used for recording deeds in the office of the county clerk of the county wherein the property described in such notice is situated, and the recording of such affidavit shall be prima facie evidence of due service thereof.

3. At any time after the recording of the petition and notice as above provided the authority may enter upon and use and occupy all the parcels of real estate described in the proceedings for the condemnation thereof, provided that it shall first deposit with the court a sum equal to the assessed valuation of such real property, or in the event that the assessed valuation thereof cannot readily be ascertained, such sum as in its judgment shall be sufficient as compensation for the real property acquired. The sum so deposited shall be applied as provided in section twenty-four of the condemnation law. Upon the recording of the petition and notice and the making of the deposit, the owner or person in possession of such real property shall deliver possession thereof to the authority upon demand, and in case possession is not delivered when demanded, or demand is not convenient because of absence of the owner or inability to locate or determine the owner, the authority may apply to the court without notice for an order requiring the sheriff to put it into possession of such real property. Such an order must be executed as if it were an execution for the delivery of the possession of the property.

4. The proceedings thereafter shall be in the manner prescribed by the condemnation law so far as consistent herewith.

5. The commissioners appointed to ascertain and determine the compensation which ought justly to be made to the owners of property or

interests therein appraised by them as provided in section thirteen of the condemnation law shall make their report of the value thereof to the supreme court within one hundred days from the date of their qualification.

6. The persons or corporations whose property shall have been taken by condemnation and who shall have agreed upon the compensation to be paid therefor in settlement of the proceeding, or to whom an award of compensation shall have been made by the court, shall be entitled to payment of the agreed or awarded compensation within three calendar months after the date of the agreement upon the amount of the compensation or of the entry of the order confirming the report of the commissioners of appraisal, together with interest upon the amount of such compensation from the time of the entry and appropriation thereof by the authority, to the date of payment of such compensation; but such interest shall cease upon the service by the authority, upon the person or corporation entitled thereto, of a fifteen days' notice that the authority is ready and willing to pay the amount of such compensation upon the presentation of proper proofs and vouchers. Such notice shall be served personally or by registered mail and publication thereof at least once a week for three successive weeks in a daily newspaper, having a general circulation in the county where such property or any part thereof is located.

7. The authority may, at its option, acquire such real property within the state of New York, under the general condemnation law or, in the event it is a licensee of the federal power commission it may acquire such real property as is necessary for its purposes through the exercise of the right of eminent domain as provided in section twenty-one of the federal power act, as amended.

8. The authority and its duly authorized agents and employees may enter upon any real property for the purpose of making the surveys or maps mentioned in this section, or for such other surveys or examinations of real property as may be necessary or convenient for the purposes of this title.

9. The term "real property" as used in this title is defined to include lands, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the said term, and includes also any and all interests in such property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

10. The authority may determine what real property is reasonably necessary for the construction or operation of any project authorized by this title including transmission facilities. If funds are made available by the authority to the state for payment of the cost and expense of the acquisition thereof, the commissioner of transportation, when requested by the authority, shall acquire such real property in the name of the state by appropriation and, where necessary, remove the owner or occupant thereof and obtain possession, according to the procedure provided by section thirty of the highway law, insofar as the same may be applicable. The authority shall have the right to possess and use for its corporate purposes, so long as its corporate existence shall continue, all such real property and rights in real property so acquired.

Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by the commissioner with the approval of the authority, or by the court of claims as provided in said section thirty. When a claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before said court. All awards and judgements arising from such claims shall be paid out of moneys of the authority.

The authority may determine whether any property appropriated pursuant to this section, while under its jurisdiction, should be sold or

exchanged in whole or in part, on terms beneficial to the state and the authority, and in all cases where such a determination is made, the authority may sell or exchange such property. Where the authority finds it practicable and reasonable, the former owner, from whom the property was appropriated, his heirs, successors in interest and assigns, shall be given the first opportunity to purchase such property at its fair market value. In order to carry any such sale or exchange into effect the authority is hereby authorized to execute and deliver in the name of the people of the state a quit claim of such property. Money proceeds of any such sale shall be retained by the authority. Title to property received upon such exchange shall be acquired in the name of the state, and the authority shall have the same rights of occupation and use thereof and shall be vested with the same rights with respect thereto as is provided in this section and in section one thousand eight as to property of the state. Where property appropriated pursuant to this section is required by the Saint Lawrence Seaway Development Corporation, created pursuant to public law three hundred fifty-eight of the 83rd Congress, or any successor corporation, the authority may convey such property to such corporation, and, if the license issued to the authority by the federal power commission shall so require, such conveyance may be made without consideration.

The attorney general is hereby authorized and empowered to certify to such Saint Lawrence Seaway Development Corporation, the right, title or interest vested in the name of the people of the state of New York in and to property appropriated pursuant to this section and proposed to be conveyed to such Saint Lawrence Seaway Development Corporation as hereinbefore provided.