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Article 1447. Charter

The charter of a road company, in addition to the information required by article 1304,¹ shall state: First, the kind of road intended to be constructed: Second, the places from and to which the road is intended to be run: Third, the counties through which it is intended to be run: Fourth, the estimated length of the road.

Acts 1874, p. 120; G.L. vol. 8, p. 122.

¹ Repealed; see, now, art. 1396—3.02.

Historical Note

Derivation. Rev.Civ.St.1911, art. 1122, read as follows:

"A charter must be prepared setting forth:

"1. The name of the corporation.

"2. The purpose for which it is formed.

"3. The place or places where its business is to be transacted.

"4. The term for which it is to exist.

"5. The number of its directors or trustees, and the names and residences of those who are appointees for the first year.

"6. The amount of its capital stock, if any, and the number of shares into which it is divided.

"7. The charter of a bridge or ferry company shall also state the stream intended to be crossed by the bridge or ferry.

"8. The charter of a road company shall also state: First, the kind of a road intended to be constructed; second, the places from and to which the road is intended to be run; third, the counties through which it is intended to be run; fourth, the estimated length of the road."

Library References

Turnpikes and Toll Roads ¶8.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

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Cross References

Turnpike projects, see art. 6674v.

Art. 1448. Toll road: incorporation

Any number of persons, not less than five, being subscribers to the stock, may organize themselves into a corporation for the purpose of constructing, building, acquiring, owning, operating and maintaining toll roads within this State by complying with the requirements of this subdivision. No corporation, except one chartered under the laws of this State, shall be authorized or permitted to construct, build, operate, acquire, own or maintain any toll road within this State.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads 6674v.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

Art. 1449. Charter

The persons proposing to form a toll road corporation shall adopt and sign articles of incorporation, which shall contain, in addition to the general requirements, the following:

1. The terminal points, and the intermediate counties through which it is intended to construct the toll road;
2. The names and places of residence of the several persons forming the association for incorporation; and
3. In what officers the management and control of the corporation shall be vested.

Acts 1913, p. 143.

Historical Note

Derivation. From Rev.Civ.St.1911, art. 1278e, which read as follows:

"The persons proposing to form a toll road corporation shall adopt and sign articles of incorporation, which shall contain:
"1. The name of the proposed corporation.

"2. The places from and to which it is intended to construct the proposed toll road, and the intermediate counties through which it is proposed to construct the same.

"3. The place at which shall be established and maintained the principal business office of the proposed corporation.

"4. The time of the commencement and the period of continuation of the proposed corporation.

"5. The amount of the capital stock of the corporation.

"6. The names and places of residence of the several persons forming the association for incorporation.

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"7. The names of the members of the first board of directors, and in what officers or persons the government of the proposed corporation and the management of its affairs shall be vested.

"8. The number and amount of shares in the capital stock of the proposed corporation."

Library References

Turnpikes and Toll Roads §6.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

Art. 1450. Examination

The articles of incorporation, when so prepared, adopted and signed, shall be submitted to the Attorney General, who shall carefully examine the same; and, if he finds them to be in accordance with the provisions of this subdivision, and not in conflict with the laws of the United States or of this State, he shall attach thereto a certificate to that effect.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads §6.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

Art. 1451. Registration

When said articles have been examined and certified, the same shall be filed in the office of the Secretary of State, accompanied by the affidavit of at least three of the directors named in such articles. Such affidavit shall state that the entire amount of the capital stock of such proposed corporation has been in good faith subscribed, and that fifty per cent of the amount subscribed has been actually paid to the directors named in such articles; and the Secretary of State shall cause such affidavit and articles to be recorded in his office, and shall attach a certificate of the fact of such record to said articles, and return the same to such corporation.

Acts 1913, p. 143.

Historical Note

Derivation. From Rev.Civ.St.1911, art. 1278g, which read as follows:

"When said articles have been examined and certified as provided in the preceding section, the same shall be filed in the office of the secretary of state, accompanied by an affidavit in writing, signed and sworn to by at least three of the directors named in such articles, before some officer of the state authorized by law to administer oaths, which affidavit shall state that the entire

amount of the capital stock of such proposed corporation has been in good faith subscribed, and that fifty per cent of the amount subscribed has been actually paid to the directors named in such articles; and the secretary of state shall cause such articles, together with said affidavit, to be recorded in his office, and shall attach a certificate of the fact of such record to said articles, and return the same to such corporation."

Library References

Turnpikes and Toll Roads §6.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

Art. 1452. Duration

No toll road corporation shall be formed to continue more than fifty years in the first instance, but such corporation may be renewed from time to time, for periods not longer than fifty years, in the manner provided for the renewal of railroad corporations.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \Leftrightarrow 6.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

Art. 1453. Charter amendments

Any toll road corporation may amend or change its articles of incorporation in the manner provided by law for railroad corporations.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \Leftrightarrow 6.

C.J.S. Turnpikes and Toll Roads §§ 8, 9.

Art. 1454. Powers

Every toll road corporation organized hereunder shall have the right to construct, build, acquire, own, operate and maintain toll roads between any points within this State.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \Leftrightarrow 9.

C.J.S. Turnpikes and Toll Roads §§ 14, 15.

Art. 1455. Use of State lands

Every such corporation shall have the right of way for its line of road through and over any land belonging to this State, and to use any earth, timber, stone or other material upon any such land necessary to the construction and operation of its road through or over said land.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \Leftrightarrow 9, 13 et seq.

C.J.S. Turnpikes and Toll Roads §§ 14, 15,
24.

Art. 1456. Private lands

Every toll road corporation shall have the right to cause such examination and survey for its proposed road to be made as may be

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necessary to the selection of the most advantageous route, and for such purposes may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damage that may be occasioned thereby.

Acts 1913, p. 143.

Library References

Eminent Domain \S 10(1), 19. C.J.S. Eminent Domain \S 24, 32 et seq.
Turnpikes and Toll Roads \S 13 et seq. C.J.S. Turnpikes and Toll Roads \S 24 et seq.

Art. 1457. Road construction

Every such corporation shall have the right to lay out its road, not exceeding two hundred feet in width, and to construct the same; and for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of its road, and to cut down any standing trees that may be in danger of falling upon or obstructing such road, making compensation in the manner provided by law.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \S 17. C.J.S. Turnpikes and Toll Roads \S 34, 35.

Art. 1458. Railroad crossings

Every such corporation shall have the right to construct its road across any railroad, street railroad or interurban line within this State, which it may intersect or touch; provided that it shall properly fence such crossings, and restore, in other respects, the property thus intercepted or crossed, to its former state.

Acts 1913, p. 143.

Library References

Railroads \S 92 et seq. C.J.S. Railroads \S 140 et seq.
Turnpikes and Toll Roads \S 17. C.J.S. Turnpikes and Toll Roads \S 34, 35.

Art. 1459. Public way crossings

Every such corporation shall have the right to construct its own road across any stream of water, water course, street, highway, plank road, turnpike or canal, which the route of said road shall intersect or touch; but such corporation shall restore the stream, water course, street, highway, plank road, turnpike or canal thus intersected or

touched, to its former state, or to such state as not to unnecessarily impair its usefulness, and shall keep such crossings in repair.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads ⇐17.

C.J.S. Turnpikes and Toll Roads §§ 34, 35.

Art. 1460. Openings

Every such corporation which may fence its right of way, may be required to make openings or crossings through its fence and over its roadbed every five miles thereof, in the manner provided by law with reference to railroad corporations.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads ⇐17.

C.J.S. Turnpikes and Toll Roads §§ 34, 35.

Art. 1461. Culverts, etc.

In no case shall any toll road corporation construct its road without first constructing the necessary culverts or sluices, as the natural lay of the land requires, for the necessary drainage thereof.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads ⇐17.

C.J.S. Turnpikes and Toll Roads §§ 34, 35.

Art. 1462. Obstruction of streams

Nothing in this chapter shall be construed to authorize the erection of any bridge or any other obstruction across or over any stream of water navigable by steamboats or sail vessels at the place where any bridge or other obstruction may be proposed to be placed, so as to prevent the navigation of such stream of water.

Acts 1913, p. 143.

Library References

Navigable Waters ⇐20(2).

C.J.S. Turnpikes and Toll Roads, §§ 34, 35.

Turnpikes and Toll Roads ⇐17.

C.J.S. Navigable Waters § 33.

Art. 1463. Eminent domain

Every toll road corporation shall have and enjoy all of the rights, privileges and immunities conferred by and be subject to each provision of the law relating to the exercise of the right of eminent domain.

Acts 1913, p. 143.

Historical Note

Derivation. From Rev.Civ.St.1911, art. 1278u, which read as follows:

"Every toll road corporation shall have and enjoy all of the rights, privileges and immunities conferred by and be subject to all of the provisions of articles 6502 to

6534, inclusive, of chapter eight of the Revised Civil Statutes of 1911 of the state of Texas relating to the condemnation of private lands and property by railroad corporations."

Library References

Eminent Domain \Leftrightarrow 10(1), 19.

C.J.S. Eminent Domain §§ 24, 32 et seq.

Notes of Decisions**1. Construction and application**

The power of eminent domain has been validly exercised under this article. *Housing Authority of City of Dallas v. Higgin-*

botham (1940) 135 T. 153, 143 S.W.2d 79, 130 A.L.R. 1053, answers to certified questions conformed to (Civ.App.) 143 S.W.2d 95.

Art. 1464. Rules and rates

Every toll road corporation shall have the power to promulgate, by its board of directors, all necessary and reasonable rules and regulations relating to the manner in which traffic shall move over any toll road operated by it, and to refuse the use of such road to any person who shall fail or refuse to abide by such rules and regulations; and shall be empowered to fix and charge tolls for the use of such roads; provided, that such rules and regulations shall not be contrary to law, and that the rate to be charged for each class of vehicle shall be the same to all in each of such classes.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \Leftrightarrow 9, 33, 41.

C.J.S. Turnpikes and Toll Roads §§ 14, 15, 64, 65.

Art. 1465. Use of road

No such corporation shall have the right arbitrarily to refuse the use of such road to any person who shall offer to pay the regular toll therefor, except that such corporation shall be authorized to refuse to permit such road to be used by any vehicle which shall render the same unduly hazardous to the patrons of said road or damaging to the surface thereof, or to any person who shall fail or refuse to abide by the reasonable and necessary traffic regulations promulgated by such corporation.

Acts 1913, p. 143.

Library References

Turnpikes and Toll Roads \Leftrightarrow 33.

C.J.S. Turnpikes and Toll Roads § 54.