

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1472

By: Adair

AS INTRODUCED

An Act relating to acquisition of lands; amending 69 O.S. 1991, Section 1203, which relates to acquisition of lands by purchase, donation or condemnation; modifying duties of district court judge in issuing certain instructions; prohibiting delay of work of commissioners; providing procedure for challenges to instructions; limiting reimbursement of certain fees; modifying definition; amending 27 O.S. 1991, Section 11, which relates to reimbursement of expenses when property not acquired; providing for award of certain fees and costs in certain circumstances; amending 27 O.S. 1991, Section 16, which relates to definition of just compensation; modifying definition; amending 66 O.S. 1991, Section 53, which relates to taking by eminent domain; modifying definition; amending 66 O.S. 1991, Section 55, which relates to review of commissioner's report; providing for award of certain fees and costs in certain circumstances; amending 69 O.S. 1991, Section 1708, which relates to condemnation proceedings; modifying definition; amending 60 O.S. 1991, Section 529, which relates to actions relating to common elements; providing

procedure for acquiring property from commonly owned areas; requiring managing body of common owners to disburse proceeds of acquisition; exempting State of Oklahoma from payment of dues or fees of common owners; creating procedure for acquiring property from real estate developments; requiring owners association to disburse proceeds of acquisition; exempting State of Oklahoma from payment of fees of owners association; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 69 O.S. 1991, Section 1203, is amended to read as follows:

Section 1203. (a) The Department shall have authority to acquire in fee simple in the name of the State of Oklahoma, by purchase, donation or condemnation, lands or such interests therein as in its discretion may be necessary for the purpose of establishing, constructing and maintaining state highways or relocations thereof, and facilities necessary or incident thereto, including borrow areas, channel changes and deposits of rock, gravel, sand and other road building material for use in highway construction and maintenance. Such acquisition may be for immediate or future use. The Department may acquire reasonable amounts of land adjacent to its normal right-of-way for the purpose of screening unsightly areas adjacent to highways, landscaping safety rest areas and scenic overlook areas.

(b) In determining the amount of land required, or width of right-of-way necessary for such state highways, the Department shall

take into consideration the present and probable future needs in connection with maintaining and reconstructing the highways, and the prevention of traffic congestion and hazards.

(c) Except in instances where there are nonresident owners, unknown heirs, imperfect titles and owners whose whereabouts cannot be ascertained with reasonable diligence, the Department shall give the owner an opportunity to sell the necessary lands or interests therein to the State of Oklahoma before resort to condemnation may be had. The Department may condemn such lands or interests therein in the following manner:

The district judge of the county in which the real property may be situated, upon petition of either party, and after ten (10) days' notice to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen (15) years of age, or, in the case of nonresidents, unknown heirs or other persons whose whereabouts cannot be ascertained, by publication in two issues of a newspaper in general circulation in the county (the ten-day period to begin with the first publication), shall direct the sheriff of the county to summon three disinterested freeholders, to be selected by the judge as commissioners, and who shall not be interested in a like question. In issuing instructions to the commissioners, the district judge shall act in a ministerial capacity only. The district judge shall act in a judicial capacity only in the event of the filing of an exception to the report of commissioners or a demand for jury trial, as provided in this section. In no event shall the appointment of the commissioners, or the progress of their work, be delayed on account of challenges made to the instructions to the commissioners. Should any party desire to challenge the instructions to the commissioners, on any grounds, the same shall be accomplished solely by the timely filing of an exception to the report of commissioners, subsequent to the filing of the report, as

provided in this section. The commissioners shall be sworn to perform their duties impartially and justly; and they shall inspect the real property and consider the injury which the owner may sustain by reason of the condemnation, and they shall assess the just compensation to which the owner is entitled; and they shall forthwith make a report in writing to the clerk of the court, setting forth the quantity, boundaries and just compensation for the property taken, and amount of injury done to the property, either directly or indirectly, which they assess to the owner, which report must be filed and recorded by the clerk. A certified copy of the report may be transmitted to the county clerk of the county where the land lies, to be by him filed and recorded (without further acknowledgment or proof) in the same manner and with like force and effect as is provided for the recording of deeds. The procedure for service by publication as authorized herein shall be the same as provided by law for service by publication in civil actions, except summons need not be issued and served, and except as otherwise provided herein.

(d) Immediately upon payment to the clerk of the court for the use of the owner the sum so assessed and reported to him as aforesaid, the Department shall thereby be authorized to enter upon the condemned premises, and remove and dispose of any obstructions thereon, by sale or otherwise. If the landowner shall refuse to deliver up possession to the Department, the court shall issue an order to the sheriff of the county to place the Department in possession thereof.

(e) (1) The report of commissioners may be reviewed by the district court, on written exceptions filed by either party in the clerk's office within thirty (30) days after the filing of such report, and the court, after hearing had, shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisement on good cause shown.

Provided, that in the event a new appraisal is ordered, the Department shall have the continuing right of possession obtained under the first appraisal, unless and until its right to condemn has finally been determined otherwise; or either party may within sixty (60) days after the filing of such report file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding such trial does not recover a verdict more favorable to him than the assessment of the commissioners, all costs in the district court shall be taxed against him. The owner shall be reimbursed for his attorney's fees and other expenses only as provided by Section 11 of Title 27 of the Oklahoma Statutes. No owner upon whom proper service by publication has been had, as provided in this title, shall be let in to defend after expiration of time for appeal or review of the report of commissioners as above provided has elapsed. Provided, that if, after the filing of exceptions to the report of commissioners as hereinafter provided, the Department shall fail to establish its right to condemn such premises, or any part thereof, the landowner shall be restored to possession of the premises, or part thereof, and the Department shall pay him for any damages sustained through the occupation by the Department, and if such damages cannot be determined by amicable settlement they shall be determined by jury trial in the same proceedings.

(2) Within ten (10) days after the report of commissioners is filed, the court clerk shall forward to the attorney of record for the condemnor, the attorney of record for each condemnee, and to all unrepresented condemnees, a copy of the commissioners' report and a notice, stating the time limits for filing an exception or demand for jury trial as specified in paragraph (A) of Section 55 of Title 66 of the Oklahoma Statutes. This notice shall be on a form

prepared by the Court Administrator, which shall be approved by the Supreme Court, and shall be distributed to all clerks of the district court by said Court Administrator. If a party has been served by publication, the clerk shall forward a copy of the report of commissioners and notice of time limits for filing an exception or demand for jury trial to the last-known mailing address, if any, and shall cause a copy of the notice of time limits to be published in one issue of a newspaper qualified to publish legal notices, as defined in Section 106 of Title 25 of the Oklahoma Statutes, ~~Section 106~~. After issuing the notices provided herein the court clerk shall endorse on the notice form filed in the case the date and that a copy of the report together with the notice form filed in the case was forwarded to each condemnee and each attorney of record, or the date the notice was published in compliance with the provisions hereof.

(3) The time limits for filing an exception and demand for jury trial, as prescribed in paragraph (A) of Section 55 of Title 66 of the Oklahoma Statutes, shall be calculated from the date the report of the commissioners is filed in the case. On failure of the court clerk to give notice within the time prescribed in paragraph (B) of Section 55 of Title 66 of the Oklahoma Statutes, the court, on application of any party, may extend the time for filing an exception to the report, or a demand for trial by jury for a period not to exceed twenty (20) days from the date the application is heard.

(f) Either party aggrieved may appeal to the Supreme Court from the decision of the district court on exceptions to the report of commissioners, or jury trial; but such review or appeal shall not delay the prosecution of the work on such highway over the premises in question if the award of commissioners, or jury, as the case may be, has been deposited with the clerk for such owner, and in no case shall the Department be liable for the costs on such review or

appeal unless the owner of the real property shall be adjudged entitled, upon either review or appeal, to a greater amount of damages than was awarded by the commissioners. The Department shall in all cases pay the cost of the commissioners' fees and expenses, for their services, as determined and ordered paid by the judge of the district court in which such case is pending, however, poundage fees and condemnation fees shall only be paid by the department in the event of appeal resulting in a jury verdict in excess of the commissioners' award, but under no circumstances shall any poundage fees or condemnation fees be assessed against the recipient of said award. And in case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk of the court, duly certified, to the proper county clerk, to be by him filed and recorded as hereinabove provided for the recording of the report, and with like effect.

(g) When an estate is being probated, or a minor or incompetent person has a legal guardian, the administrator or executor of the estate, or guardian of the minor or incompetent person, shall have the authority to execute all instruments of conveyance provided for in this title on behalf of the estate, minor or incompetent person without other proceedings than approval by the judge of the district court endorsed on the instrument of conveyance.

(h) "Just compensation", as used in this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, the value of the property taken shall be determined in light of its contribution to the value of the whole tract before the taking, and not its value as a piece of property separate and disconnected from the remainder of the tract. Accordingly, if only a part of a tract is taken, just compensation shall be ascertained

by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking.

However, because benefits to the part of the property not taken may not be offset against the value of the property taken, the compensation awarded shall not be less than the value of the property taken.

SECTION 2. AMENDATORY 27 O.S. 1991, Section 11, is amended to read as follows:

Section 11. Where a condemnation proceeding is instituted by any person, agency or other entity to acquire real property for use as provided in Section 9 of this title and

1. The final judgment is that the real property cannot be acquired by condemnation;
2. The proceeding is abandoned; or
3. If the award of the jury exceeds the greater of the award of the court-appointed commissioners or the highest written offer of purchase or written offer of settlement made by the condemnor at least ten (10) days prior to trial by at least ten percent (10%), the owner of any right, title or interest in such real property may be paid such sum as in the opinion of the court will reimburse such owner for his reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings. Such determination by the court shall be appealable to the Supreme Court in the same manner as any other final order. The final award of such sums will be paid by the person, agency or other entity which sought to condemn the property.

SECTION 3. AMENDATORY 27 O.S. 1991, Section 16, is amended to read as follows:

Section 16. A. In every case wherein private property is taken or damaged for public use, the person whose property is taken or damaged shall be entitled to just compensation.

B. "Just compensation", as used in subsection A of this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, the value of the property taken shall be determined in light of its contribution to the value of the whole tract before the taking, and not its value as a piece of property separate and disconnected from the remainder of the tract. Accordingly, if only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking. However, because benefits to the part of the property not taken may not be offset against the value of the property taken, the compensation awarded shall not be less than the value of the property taken.

SECTION 4. AMENDATORY 66 O.S. 1991, Section 53, is amended to read as follows:

Section 53. A. If the owner of any real property or interest therein, over which any railroad corporation, incorporated under the laws of this state, may desire to locate its road, shall refuse to grant the right-of-way through and over his premises, the district judge of the county in which said real property may be situated shall, upon the application or petition of either party, and after ten (10) days' notice to the opposite party, direct the sheriff of said county to summon three disinterested freeholders, to be selected by said judge as commissioners, and who shall not be interested in a like question.

B. The condemnor shall give notice to a condemnee by personal service or by leaving a copy of the notice at the condemnee's place of residence with some member of his family over fifteen (15) years

of age, or by publication in the case of a condemnee who resides out of this state or a resident of this state who has departed herefrom with intent to avoid service of notice, or whose whereabouts or identity the condemnor, or his attorney, upon diligent inquiry is unable to ascertain, or an unknown heir, successor or assign of one in whom some right, title or interest in the property concerned was possessed, by publishing such notice once a week for two (2) consecutive weeks in a newspaper authorized by law to publish legal notices in the county where the petition is filed, the ten-day period to begin with the first publication. A copy of such notice and a copy of the petition shall be mailed to such opposite party's last-known mailing address within five (5) days of the first publication thereof. The procedure for service by publication as authorized herein shall in all other respects be as provided by law for service by publication in civil actions, except summons need not first be issued.

C. The commissioners shall be sworn to perform their duties impartially and justly; and they shall inspect said real property and consider the injury which said owner may sustain by reason of the condemnation and they shall assess the just compensation to which said owner is entitled; and they shall forthwith make report in writing to the clerk of the court, setting forth the quantity, boundaries, and just compensation for the property taken, and amount of injury done to the property, either directly or indirectly, which they assess to the owner; which report must be filed and recorded by the clerk. A certified copy of the report may be transmitted to the county clerk of the county where the land lies, to be by him filed and recorded, without further acknowledgment or proof, in the manner and with like force and effect as is provided for the recording of deeds. And if said corporation shall, at any time before it enters upon said real property for the purpose of constructing said road, pay to said clerk for the use of said owner the sum so assessed and

reported to him as aforesaid, it shall thereby be authorized to construct and maintain its road over and across said premises.

D. "Just compensation", as used in subsection C of this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, the value of the property taken shall be determined in light of its contribution to the value of the whole tract before the taking, and not its value as a piece of property separate and disconnected from the remainder of the tract. Accordingly, if only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking. However, because benefits to the part of the property not taken may not be offset against the value of the property taken, the compensation awarded shall not be less than the value of the property taken.

SECTION 5. AMENDATORY 66 O.S. 1991, Section 55, is amended to read as follows:

Section 55. (A) The report of the commissioners may be reviewed by the district court, on written exceptions filed by either party, in the clerk's office within thirty (30) days after the filing of such report; and the court shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisement on good cause shown; or either party may within sixty (60) days after the filing of such report file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding such

trial does not recover a verdict more favorable to him than the assessment of the commissioners, all costs in the district court may be taxed against him.

(B) Within ten (10) days after the report of commissioners is filed, the court clerk shall forward to the attorney of record for the condemnor, the attorney of record for each condemnee, and to all unrepresented condemnees, a copy of the commissioners' report and a notice stating the time limits for filing an exception or demand for jury trial as specified in paragraph (A) of this section. This notice shall be on a form prepared by the Court Administrator, which shall be approved by the Supreme Court, and shall be distributed to all clerks of the district court by said Court Administrator. If a party has been served by publication, the clerk shall forward a copy of the report of commissioners and notice of time limits for filing an exception or demand for jury trial to the last-known mailing address, if any, and shall cause a copy of the notice of time limits to be published in one (1) issue of a newspaper qualified to publish legal notices, as defined in Section 106 of Title 25 of the Oklahoma Statutes. After issuing the notices provided herein, the court clerk shall endorse on the notice form filed in the case, the date and that a copy of the report together with the notice was mailed to each party or his attorney of record, or the date the notice was published in compliance with the provisions hereof.

(C) The time limits for filing an exception and demand for jury trial, as prescribed in paragraph (A) of this section, shall be calculated from the date the report of the commissioners is filed in the case. On failure of the court clerk to give notice within the time prescribed in paragraph (B) of this section, the court, on application of any party, may extend the time for filing an exception to the report or a demand for trial by jury for a period not to exceed twenty (20) days from the date the application is heard.

(D) Where the party instituting a condemnation proceeding abandons such proceeding, or where the final judgment is that the real property cannot be acquired by condemnation or if the award of the jury exceeds the greater of the award of the court-appointed commissioners or the highest written offer of purchase or written offer of settlement made by the condemnor at least ten (10) days prior to trial by at least ten percent (10%), then the owner of any right, title or interest in the property involved may be paid such sum as in the opinion of the court will reimburse such owner for his reasonable attorney, appraisal, engineering, and expert witness fees actually incurred because of the condemnation proceeding. The sum awarded shall be paid by the party instituting the condemnation proceeding.

SECTION 6. AMENDATORY 69 O.S. 1991, Section 1708, is amended to read as follows:

Section 1708. (a) Except in instances where there are nonresident owners, unknown heirs, imperfect titles, and owners whose whereabouts cannot be ascertained with reasonable diligence, the Authority shall give the owner an opportunity to sell the necessary land or interests therein to the Authority before resort to condemnation may be had.

(b) The Authority may condemn such lands or interests therein in the following manner:

(1) The district judge of the county in which the real property may be situated, upon petition of either party, and after ten (10) days' notice to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen (15) years of age, or, in the case of nonresidents, unknown heirs, or other persons whose whereabouts cannot be ascertained, by publication in two issues of a weekly newspaper in general circulation in the county (the ten-day period to begin with the first publication), shall direct the sheriff of

the county to summons three disinterested freeholders, to be selected by the judge as commissioners, and who shall not be interested in a like question. The commissioners shall be sworn to perform their duties impartially and justly; and they shall inspect the real property and consider the just compensation to which the owner is entitled, and they shall forthwith make report in writing to the clerk of the court, setting forth the quantity, boundaries and just compensation for the property taken, and amount of injury done to the property, either directly or indirectly, which they assess to the owner; which report must be filed and recorded by the clerk, and a certified copy thereof may be transmitted to the county clerk of the county where the land lies, to be by him filed and recorded (without further acknowledgment of proof) in the same manner and with like force and effect as is provided for the recording of deeds. Procedure for service by publication as authorized herein shall be the same as provided by law for service by publication in civil actions, except summons need not be issued and served, and except as otherwise provided herein. Within ten (10) days after the report of commissioners is filed, the court clerk shall forward to the attorney of record for the condemnor, the attorney of record for each condemnee, and to all unrepresented condemnees a copy of the commissioners' report and a notice stating the time limits for filing an exception or demand for jury trial. This notice shall be on a form prepared by the court administrator, which shall be approved by the Supreme Court, and shall be distributed to all clerks of the district court by said court administrator. If a party has been served by publication, the clerk shall forward a copy of the report of commissioners and notice of time limits for filing an exception or demand for jury trial to the last-known mailing address, if any, and shall cause a copy of the notice of time limits to be published in one issue of a newspaper qualified to publish legal notices, as defined in Section 106 of

Title 25 of the Oklahoma Statutes. After issuing the notices provided herein, the court clerk shall endorse on the notice form filed in the case the date and that a copy of the report together with the notice was mailed to each party or his attorney of record, or the date the notice was published in compliance with the provisions hereof.

(2) Immediately upon payment to the clerk of the court for the use of the owner the sum so assessed and reported to him as aforesaid, the Authority shall thereby be authorized to enter upon the condemned premises, and remove and dispose of any obstructions thereon, by sale or otherwise. If the landowner shall refuse to deliver up possession to the Authority, the court shall issue an order to the sheriff of the county to place the Authority in possession thereof.

(3) The report of commissioners may be reviewed by the district court, on written exceptions filed by either party in the clerk's office within thirty (30) days after the filing of such report, and the court, after hearing had, shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisement on good cause shown. Provided, that in the event a new appraisement is ordered, the Authority shall have the continuing right of possession obtained under the first appraisal, unless and until its right to condemn has finally been determined otherwise; or either party may within sixty (60) days after the filing of such report file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. No owner upon whom proper service by publication has been had as provided in this article shall be let in to defend after expiration of time for appeal or review of the report of commissioners, as above provided, has elapsed. Provided, that if, after the filing of

exceptions to the report of commissioners as herein provided, the Authority shall fail to establish its right to condemn the premises, or any part thereof, the landowner shall be restored to possession of the premises, or part thereof, and the Authority shall pay him for any damages sustained through the occupation by the Authority, and if the damages cannot be determined by amicable settlement they shall be determined by jury trial in the same proceedings. The time limits for filing an exception and demand for jury trial shall be calculated from the date the report of commissioners is filed in the case. On failure of the court clerk to give notice within the time prescribed in paragraph (b) of this section, the court, on application of any party, may extend the time for filing an exception to the report, or a demand for trial by jury for a period not to exceed twenty (20) days from the date the application is heard.

(4) Either party aggrieved may appeal to the Supreme Court from the decision of the district court on exception to the report of commissioners, or jury trial; but such review or appeal shall not delay the prosecution of the work on such turnpike project over the premises in question if the award of commissioners, or jury, as the case may be, has been deposited with the clerk for the owner. The Authority shall in all cases pay the cost and expenses of the first assessment. And in case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk of the court, duly certified, to the proper county clerk, to be by him filed and recorded as hereinabove provided for the recording of the report, and with like effect.

(c) Where an estate is being probated, or a minor or incompetent person has a legal guardian, the administrator or executor of such estate, or the guardian of such minor or incompetent person, shall have authority to execute all instruments of conveyance provided for in this article on behalf of the estate,

minor or incompetent person without other proceedings than approval by the judge of the district court endorsed on the instrument of conveyance.

(d) "Just compensation", as used in this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of the tract is taken, the value of the property taken shall be determined in light of its contribution to the value of the whole tract before the taking, and not its value as a piece of property separate and disconnected from the remainder of the tract. Accordingly, if only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking. However, because benefits to the part of the property not taken may not be offset against the value of the property taken, the compensation awarded shall not be less than the value of the property taken.

SECTION 7. AMENDATORY 60 O.S. 1991, Section 529, is amended to read as follows:

Section 529. A. Actions may be brought on behalf of two or more of the unit owners, as their respective interests may appear, by the manager or board of managers, with respect to any cause of action relating to the common elements or more than one unit. Service of process on two or more unit owners in any action relating to the common elements or more than one unit may be made on the person designated in the declaration to receive service of process.

B. Notwithstanding any provision in this act to the contrary, the managing or administrative body established by the bylaws shall be authorized to convey to the State of Oklahoma all or any portion

of the common elements, or an interest therein, that is needed by this state in connection with any lawfully authorized public project, upon the terms and conditions deemed by the managing or administrative board to be in the best interests of the council of unit owners. Any agency or instrumentality of this state authorized to acquire real property by condemnation may condemn all or any portion of the common elements, or an interest therein, by naming, as a party to said proceedings, the managing or administrative board. In the event of an acquisition of all or any portion of the common elements, or an interest therein, by this state, whether such acquisition be by purchase, donation, or condemnation, it shall be the duty of the managing or administrative board to disburse and distribute the proceeds of such acquisition, if any, as provided or required by this act. Subsequent to such an acquisition this state shall not, under any circumstances, be further subject to any of the provisions of this act, including but not limited to the payment of dues or fees.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 857 of Title 60, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any provision in this act to the contrary, the owners association or other managing or administrative body shall be authorized to convey to the State of Oklahoma all or any portion of the commonly owned areas, or an interest therein, that is needed by this state in connection with any lawfully authorized public project, upon the terms and conditions deemed by the owners association or managing or administrative board to be in the best interests of the council of unit owners. Any agency or instrumentality of this state authorized to acquire real property by condemnation may condemn all or any portion of the commonly owned areas, or an interest therein, by naming, as a party to said proceedings, the owner's association or managing or administrative

board. In the event of an acquisition of all or any portion of the commonly owned areas, or an interest therein, by this state, whether such acquisition be by purchase, donation, or condemnation, it shall be the duty of the owners association or managing or administrative board to disburse and distribute the proceeds of such acquisition, if any, as provided or required by this act. Subsequent to such an acquisition this state shall not, under any circumstances, be further subject to any of the provisions of this act, including but not limited to the payment of dues or fees.

SECTION 9. This act shall become effective September 1, 1993.

44-1-6051

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