

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 2162

By: Hamilton of the House

and

Mickle of the Senate

AS INTRODUCED

An Act relating to eminent domain; permitting certain offer of judgment; requiring certain costs to be included in offer of judgment; providing for certain response within certain time period; providing for counteroffer; providing for award of fees and cost under certain circumstances; providing that certain evidence not admissible; providing that act does not apply to certain proceedings; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11.1 of Title 27, unless there is created a duplication in numbering, reads as follows:

A. After a condemnation proceeding or inverse condemnation proceeding is brought pursuant to Section 2 of Title 27, Section 53 of Title 66, or Section 1203 or 1708 of Title 69 of the Oklahoma Statutes, the condemnor may file with the court, at any time more

than twenty (20) days prior to trial, an offer of judgment for a sum certain to any condemnee with respect to the action. An offer of judgment shall be deemed to include any costs and attorney fees. If an offer of judgment is filed, the condemnee or condemnees to whom the offer of judgment is made shall, within ten (10) days, file:

1. A written acceptance or rejection of the offer; or

2. A counteroffer of judgment, as described in subsection B of this section.

If a condemnee fails to file a timely response, the offer of judgment shall be deemed rejected. The fact an offer of judgment is made but not accepted or is deemed rejected does not preclude subsequent timely offers of judgment.

B. In the event a condemnor files an offer of judgment, the condemnee may, within ten (10) days, file with the court a counteroffer of judgment to the condemnor who has filed an offer of judgment. If a counteroffer of judgment is filed, the condemnor may, within ten (10) days, file a written acceptance or rejection of the counteroffer of judgment. If the condemnor fails to file a timely response, the counteroffer of judgment shall be deemed rejected. The fact a counteroffer of judgment is made but not accepted or is deemed rejected does not preclude subsequent counteroffers of judgment if subsequent offers of judgment are made.

C. If no offer of judgment or counteroffer of judgment is accepted and the judgment awarded the condemnee, exclusive of any costs or attorney fees otherwise recoverable, is less than one or more of the condemnor's offers of judgment, the condemnor shall be entitled to reasonable costs, attorney fees, appraisal fees and engineering fees incurred by the condemnor with respect to the action from and after the date of the first offer of judgment which is greater than the judgment until the date of judgment.

D. If no offer of judgment or counteroffer of judgment is accepted and the judgment awarded the condemnee, exclusive of any

costs or attorney fees otherwise recoverable, is greater than one or more counteroffers of judgment, and exceeds the award of the commissioners by ten percent (10%), the condemnee shall be entitled to recover the reasonable costs, attorney fees, appraisal fees and engineering fees incurred by the condemnee since the filing of the action. Such costs and fees may be added to the judgment entered in favor of the condemnee.

E. If no offer of judgment or counteroffer of judgment is made by either party, reasonable costs and attorney fees may be recovered if permitted pursuant to Section 11 of Title 27 or Section 55 of Title 66 of the Oklahoma Statutes.

F. Evidence of an offer of judgment or counteroffer of judgment shall not be admissible in any action or proceeding for any purpose except in proceedings to enforce a settlement arising out of an offer of judgment or counteroffer of judgment or to determine reasonable attorney fees and costs under this section.

G. This section shall apply whether or not costs or attorney fees are otherwise recoverable.

H. This section shall apply to all condemnation proceedings or inverse condemnation proceedings filed after November 1, 1997.

SECTION 2. This act shall become effective November 1, 1997.

46-1-6447

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