

STATE OF OKLAHOMA

2nd Extraordinary Session of the 50th Legislature (2006)

HOUSE BILL 1223

By: Lindley

AS INTRODUCED

An Act relating to eminent domain; amending 27 O.S. 2001, Sections 9 and 11, which relate to acquisition of property and expenses; directing payment of certain fees; modifying applicability of certain act to other persons or entities; providing method of determining reimbursement of certain fees; providing method of acquiring certain easements; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 27 O.S. 2001, Section 9, is amended to read as follows:

Section 9. The provisions of ~~this act~~ Section 9 et seq. of this title shall be applicable to the acquisition of real property under the laws of this state for public use in any project or program in which federal, state or local funds are used, or for those persons or entities, excluding railroads, that are authorized to acquire property in like manner pursuant to Section 51 et seq. of Title 66 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 27 O.S. 2001, Section 11, is amended to read as follows:

Section 11. Where a condemnation proceeding is instituted by any person, agency or other entity, excluding railroads, to acquire real property for use as provided in Section 9 of this title or when authorized to acquire in like manner as railroads pursuant to Section 51 et seq. of Title 66 of the Oklahoma Statutes 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 award of the court-appointed commissioners by at least ten percent (10%), the owner of any right, title or interest in such real property ~~may~~ shall be paid by the condemning party such sum as in the opinion of the court will reimburse such owner for ~~his~~ the reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings. When a condemning party claims, through a condemnation proceeding, that the award of the court-appointed commissioners is too high, the condemning party must receive a jury award of ninety percent (90%) or less than the award of the court-appointed commissioners, or the condemning party shall pay a sum which, in the opinion of the court, will reimburse the property owner for reasonable attorney, appraisal, engineering, and expert witness fees actually incurred because of the condemnation proceeding. 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17 of Title 27, unless there is created a duplication in numbering, reads as follows:

When an agency or department of this state needs to move and/or replace utilities, a utility easement shall first be requested and an offer for purchase made at the fair market value. If the request is rejected in writing by the landowner, then the territory necessary for the easement may be pursued through a condemnation proceeding.

SECTION 4. This act shall become effective November 1, 2006.

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