

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 665

By: Branan

4
5
6 AS INTRODUCED

7 An Act relating to condemnation proceedings; amending
8 27 O.S. 2001, Section 11, which relates to
9 reimbursement of expenses; limiting certain
10 reimbursement under specified circumstances;
11 providing for appeal of certain orders; amending 66
12 O.S. 2001, Section 55, which relates to review of
13 commissioner's report; limiting certain reimbursement
14 under specified circumstances; providing for appeal
15 of certain orders; updating statutory references; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 27 O.S. 2001, Section 11, is
19 amended to read as follows:

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

23 1. The final judgment is that the real property cannot be
24 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%),

1 the owner of any right, title or interest in such real property
2 may be paid such sum as in the opinion of the court will reimburse
3 such owner for his reasonable attorney, appraisal and engineering
4 fees, actually incurred because of the condemnation proceedings.
5 Such determination by the court shall be appealable to the Supreme
6 Court in the same manner as any other final order. The final award
7 of such sums will be paid by the person, agency or other entity
8 which sought to condemn the property.

9 B. If the condemning authority makes a written offer and such
10 offer is not accepted in writing by the owner within ten (10) days
11 and the award of the jury exceeds the award of the court-appointed
12 commissioners by at least ten percent (10%), but less than the
13 written offer, the owner of any right, title or interest in such
14 real property may only be paid such sum as in the opinion of the
15 court will reimburse such owner for the reasonable time actually
16 spent by the owner's attorney, appraiser and engineer because of the
17 condemnation proceedings up to the date the offer was made. Such
18 determination by the court shall be appealable to the Supreme Court
19 in the same manner as any other final order.

20 C. In the case of an inverse condemnation, if the condemning
21 authority makes a written offer and such offer is not accepted in
22 writing by the owner within ten (10) days and the jury determines
23 there is a taking and the award of the jury is less than the written
24 offer, the owner of any right, title or interest in such real

1 property may only be paid such sum as in the opinion of the court
2 will reimburse such owner for the reasonable time actually spent by
3 the owner's attorney, appraiser and engineer up to the date the
4 offer was made. Such determination by the court shall be appealable
5 to the Supreme Court in the same manner as any other final order.

6 SECTION 2. AMENDATORY 66 O.S. 2001, Section 55, is
7 amended to read as follows:

8 Section 55. ~~(A)~~ A. The report of the commissioners may be
9 reviewed by the district court, on written exceptions filed by
10 either party, in the clerk's office within thirty (30) days after
11 the filing of such report; and the court shall make such order
12 therein as right and justice may require, either by confirmation,
13 rejection or by ordering a new appraisement on good cause shown; or
14 either party may within sixty (60) days after the filing of such
15 report file with the clerk a written demand for a trial by jury, in
16 which case the amount of damages shall be assessed by a jury, and
17 the trial shall be conducted and judgment entered in the same manner
18 as civil actions in the district court. If the party demanding such
19 trial does not recover a verdict more favorable to him than the
20 assessment of the commissioners, all costs in the district court may
21 be taxed against him.

22 ~~(B)~~ B. Within ten (10) days after the report of commissioners
23 is filed, the court clerk shall forward to the attorney of record
24 for the condemnor, the attorney of record for each condemnee, and to

1 all unrepresented condemnees, a copy of the commissioners' report
2 and a notice stating the time limits for filing an exception or
3 demand for jury trial as specified in ~~paragraph (A)~~ subsection A of
4 this section. This notice shall be on a form prepared by the Court
5 Administrator, which shall be approved by the Supreme Court, and
6 shall be distributed to all clerks of the district court by said
7 Court Administrator. If a party has been served by publication, the
8 clerk shall forward a copy of the report of commissioners and notice
9 of time limits for filing an exception or demand for jury trial to
10 the last-known mailing address, if any, and shall cause a copy of
11 the notice of time limits to be published in one (1) issue of a
12 newspaper qualified to publish legal notices, as defined in Section
13 106 of Title 25 of the Oklahoma Statutes. After issuing the notices
14 provided herein, the court clerk shall endorse on the notice form
15 filed in the case, the date and that a copy of the report together
16 with the notice was mailed to each party or his attorney of record,
17 or the date the notice was published in compliance with the
18 provisions hereof.

19 ~~(C)~~ C. The time limits for filing an exception and demand for
20 jury trial, as prescribed in ~~paragraph (A)~~ subsection A of this
21 section, shall be calculated from the date the report of the
22 commissioners is filed in the case. On failure of the court clerk
23 to give notice within the time prescribed in ~~paragraph (B)~~
24 subsection B of this section, the court, on application of any

1 party, may extend the time for filing an exception to the report or
2 a demand for trial by jury for a period not to exceed twenty (20)
3 days from the date the application is heard.

4 ~~(D)~~ D. Where the party instituting a condemnation proceeding
5 abandons such proceeding, or where the final judgment is that the
6 real property cannot be acquired by condemnation or if the award of
7 the jury exceeds the award of the court-appointed commissioners by
8 at least ten percent (10%), then the owner of any right, title or
9 interest in the property involved may be paid such sum as in the
10 opinion of the court will reimburse such owner for his reasonable
11 attorney, appraisal, engineering, and expert witness fees actually
12 incurred because of the condemnation proceeding. The sum awarded
13 shall be paid by the party instituting the condemnation proceeding.

14 E. If the condemning authority makes a written offer and such
15 offer is not accepted in writing by the owner within ten (10) days
16 and the award of the jury exceeds the award of the court-appointed
17 commissioners by at least ten percent (10%), but less than the
18 written offer, the owner of any right, title or interest in such
19 real property may only be paid such sum as in the opinion of the
20 court will reimburse such owner for the reasonable time actually
21 spent by the owner's attorney, appraiser, engineer and expert
22 witnesses because of the condemnation proceedings up to the date the
23 offer was made. Such determination by the court shall be appealable
24 to the Supreme Court in the same manner as any other final order.

1 SECTION 3. This act shall become effective November 1, 2011.

2
3 53-1-590 TEK 1/19/2011 4:51:44 PM
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24