

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 290

By: Newberry of the Senate

and

Watson of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to acquisition of property; amending
12 66 O.S. 2011, Section 55, which relates to review of
13 commissioners' report; modifying requirements related
14 to offer to settle in certain proceedings; amending
15 27 O.S. 2011, Section 11, which relates to
16 reimbursement of expenses; modifying requirements for
17 reimbursement of certain costs and fees; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 66 O.S. 2011, Section 55, is
21 amended to read as follows:

22 Section 55. ~~(A)~~ A. The report of the commissioners may be
23 reviewed by the district court, on written exceptions filed by
24 either party, in the clerk's office within thirty (30) days after
the filing of such report; and the court shall make such order

1 therein as right and justice may require, either by confirmation,
2 rejection or by ordering a new appraisalment on good cause shown; or
3 either party may within sixty (60) days after the filing of such
4 report file with the clerk a written demand for a trial by jury, in
5 which case the amount of damages shall be assessed by a jury, and
6 the trial shall be conducted and judgment entered in the same manner
7 as civil actions in the district court. If the party demanding such
8 trial does not recover a verdict more favorable to him than the
9 assessment of the commissioners, all costs in the district court may
10 be taxed against him. Not later than thirty (30) days after a
11 party's written demand for jury trial, the condemnor may make a last
12 offer to settle as provided in Section 1101.1 of Title 12 of the
13 Oklahoma Statutes.

14 ~~(B)~~ B. Within ten (10) days after the report of commissioners
15 is filed, the court clerk shall forward to the attorney of record
16 for the condemnor, the attorney of record for each condemnee, and to
17 all unrepresented condemnees, a copy of the commissioners' report
18 and a notice stating the time limits for filing an exception or
19 demand for jury trial as specified in ~~paragraph (A)~~ subsection A of
20 this section. This notice shall be on a form prepared by the Court
21 Administrator, which shall be approved by the Supreme Court, and
22 shall be distributed to all clerks of the district court by ~~said~~ the
23 Court Administrator. If a party has been served by publication, the
24 clerk shall forward a copy of the report of commissioners and notice

1 of time limits for filing an exception or demand for jury trial to
2 the last-known mailing address, if any, and shall cause a copy of
3 the notice of time limits to be published in one (1) issue of a
4 newspaper qualified to publish legal notices, as defined in Section
5 106 of Title 25. After issuing the notices provided herein, the
6 court clerk shall endorse on the notice form filed in the case, the
7 date and that a copy of the report together with the notice was
8 mailed to each party or his attorney of record, or the date the
9 notice was published in compliance with the provisions hereof.

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

19 ~~(D)~~ D. Where the party instituting a condemnation proceeding
20 abandons such proceeding, or where the final judgment is that the
21 real property cannot be acquired by condemnation or if the award of
22 the jury exceeds ~~the award of the court-appointed commissioners~~ by
23 at least ten percent (10%) the greater of the award of the court-
24 appointed commissioners or the condemnor's last offer pursuant to

1 subsection A of this section, then the owner of any right, title or
2 interest in the property involved may be paid such sum as in the
3 opinion of the court will reimburse such owner for his reasonable
4 attorney, appraisal, engineering, and expert witness fees actually
5 incurred because of the condemnation proceeding. The sum awarded
6 shall be paid by the party instituting the condemnation proceeding.

7 SECTION 2. AMENDATORY 27 O.S. 2011, Section 11, is
8 amended to read as follows:

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

12 1. The final judgment is that the real property cannot be
13 acquired by condemnation;

14 2. The proceeding is abandoned; or

15 3. If the award of the jury exceeds ~~the award of the court-~~
16 ~~appointed commissioners~~ by at least ten percent (10%) the greater of
17 the award of the court-appointed commissioners or the condemnor's
18 last offer to settle as provided in Section 1101.1 of Title 12 of
19 the Oklahoma Statutes, the owner of any right, title or interest in
20 such real property may be paid such sum as in the opinion of the
21 court will reimburse such owner for his reasonable attorney,
22 appraisal and engineering fees, actually incurred because of the
23 condemnation proceedings. Such determination by the court shall be
24 appealable to the Supreme Court in the same manner as any other

1 final order. The final award of such sums will be paid by the
2 person, agency or other entity which sought to condemn the property.

3 SECTION 3. This act shall become effective November 1, 2017.
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND
6 ENVIRONMENTAL, dated 04/05/2017 - DO PASS, As Amended.
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