

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 632

By: Standridge

COMMITTEE SUBSTITUTE

An Act relating to condemnation proceedings; amending 27 O.S. 2011, Section 11, which relates to reimbursement of expenses; establishing certain exception; conforming language; amending 66 O.S. 2011, Section 55, which relates to commissioners' report; modifying procedures for offers of judgment in certain condemnation proceedings; prohibiting recovery of court costs and fees under certain circumstances; making language gender neutral; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 27 O.S. 2011, 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

1 3. ~~If~~ Except as provided in subsection E of Section 55 of Title
2 66 of the Oklahoma Statutes, the award of the jury exceeds the award
3 of the court-appointed commissioners by at least ten percent (10%),
4 the owner of any right, title or interest in such real property may
5 be paid such sum as in the opinion of the court will reimburse such
6 owner for ~~his~~ the party's reasonable attorney, appraisal and
7 engineering fees, actually incurred because of the condemnation
8 proceedings. Such determination by the court shall be appealable to
9 the Supreme Court in the same manner as any other final order. The
10 final award of such sums will be paid by the person, agency or other
11 entity which sought to condemn the property.

12 SECTION 2. AMENDATORY 66 O.S. 2011, Section 55, is
13 amended to read as follows:

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

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

4 ~~(B)~~ B. Within ten (10) days after the report of commissioners
5 is filed, the court clerk shall forward to the attorney of record
6 for the condemnor, the attorney of record for each condemnee, and to
7 all unrepresented condemnees, a copy of the commissioners' report
8 and a notice stating the time limits for filing an exception or
9 demand for jury trial as specified in ~~paragraph (A)~~ subsection A of
10 this section. This notice shall be on a form prepared by the Court
11 Administrator, which shall be approved by the Supreme Court, and
12 shall be distributed to all clerks of the district court by ~~said the~~ the
13 Court Administrator. If a party has been served by publication, the
14 clerk shall forward a copy of the report of commissioners and notice
15 of time limits for filing an exception or demand for jury trial to
16 the last-known mailing address, if any, and shall cause a copy of
17 the notice of time limits to be published in one (1) issue of a
18 newspaper qualified to publish legal notices, as defined in Section
19 106 of Title 25 of the Oklahoma Statutes. After issuing the notices
20 provided herein, the court clerk shall endorse on the notice form
21 filed in the case, the date and that a copy of the report together
22 with the notice was mailed to each party or ~~his~~ party's attorney of
23 record, or the date the notice was published in compliance with the
24 provisions hereof.

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

10 ~~(D)~~ ~~Where~~ D. Except as otherwise provided in subsection E of
11 this section, when the party instituting a condemnation proceeding
12 abandons such proceeding, or where the final judgment is that the
13 real property cannot be acquired by condemnation or if the award of
14 the jury exceeds the award of the court-appointed commissioners by
15 at least ten percent (10%), then the owner of any right, title or
16 interest in the property involved may be paid such sum as in the
17 opinion of the court will reimburse such owner for ~~his~~ the party's
18 reasonable attorney, appraisal, engineering, and expert witness fees
19 actually incurred because of the condemnation proceeding as provided
20 in Section 11 of Title 27 of the Oklahoma Statutes. The sum awarded
21 shall be paid by the party instituting the condemnation proceeding.

22 E. In cases where the award of court-appointed commissioners is
23 Seventy-five Thousand Dollars (\$75,000.00) or less, the condemning
24 party may serve the defendant with an offer of judgment no sooner

1 than one hundred twenty (120) days after the commissioners' award
2 and no later than twenty (20) days prior to trial. The condemning
3 party's offer of judgment shall:

- 4 1. Be in writing;
- 5 2. Propose to settle all pending claims between the parties;
- 6 3. Itemize the total amount of just compensation to be paid to
7 the defendant; and
- 8 4. Itemize the total amount offered to cover the defendant's
9 court costs and fees associated with the litigation.

10 The offer of judgment shall be served upon the parties in the
11 same manner as any other pleading in a condemnation action but shall
12 not be filed with the court unless it is accepted or it becomes
13 necessary to enforce the provisions of this section. The offer of
14 judgment shall be valid unless revoked in writing prior to the
15 written acceptance or rejection by the defendant. If no written
16 acceptance or rejection is given, the offer of judgment shall be
17 deemed rejected twenty (20) days after the date of service of the
18 offer. Upon proper filing of both the written offer and written
19 acceptance, the court shall enter a judgment thereon. If a valid
20 offer of judgment is rejected by the defendant and the jury award of
21 just compensation does not exceed the itemized amount of just
22 compensation included in the offer of judgment, then the defendant
23 shall be ineligible to petition the court for costs and fees set
24 forth in subsection D of this section regardless of whether the jury

1 award exceeded the commissioners' award by at least ten percent
2 (10%).

3 SECTION 3. This act shall become effective November 1, 2019.

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