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February 26, 2019

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 632

By: Standridge

[condemnation proceedings - reimbursement of
expenses - commissioners' report - recovery of court
costs and fees - 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

3. ~~If Except as provided in subsection E of Section 55 of Title~~
66 of the Oklahoma Statutes, 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 be paid such sum as in the opinion of the court will

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

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

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

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

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

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

1 subsection B of this section, the court, on application of any
2 party, may extend the time for filing an exception to the report or
3 a demand for trial by jury for a period not to exceed twenty (20)
4 days from the date the application is heard.

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

17 E. In cases where the award of court-appointed commissioners is
18 Seventy-five Thousand Dollars (\$75,000.00) or less, the condemning
19 party may serve the defendant with an offer of judgment no sooner
20 than one hundred twenty (120) days after the commissioners' award
21 and no later than twenty (20) days prior to trial. The condemning
22 party's offer of judgment shall:

23 1. Be in writing;

24 2. Propose to settle all pending claims between the parties;

1 3. Itemize the total amount of just compensation to be paid to
2 the defendant; and

3 4. Itemize the total amount offered to cover the defendant's
4 court costs and fees associated with the litigation.

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
24 February 26, 2019 - DO PASS AS AMENDED