

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 272
Committee Substitute Favorable 4/4/13
PROPOSED COMMITTEE SUBSTITUTE H272-PCS30446-RW-16

Short Title: DOT Condemnation Changes.

(Public)

Sponsors:

Referred to:

March 12, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT INTEREST ON A DOT CONDEMNATION AWARD SHALL BE PAID FROM THE DATE OF TAKING UNTIL THE DATE THE JUDGMENT IS PAID AND TO AUTHORIZE A DEFENDANT IN SUCH AN ACTION TO RECOVER ATTORNEYS' FEES AND COSTS IF THE JUDGMENT EXCEEDS THE DEPOSIT BY TWENTY-FIVE PERCENT OR MORE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-113 reads as rewritten:

"§ 136-113. Interest as a part of just compensation.

To said amount awarded as damages by the commissioners or a jury or judge, the judge shall, as a part of just compensation, add interest at the legal rate as provided in G.S. 24-1 on said amount from the date of taking to the date of judgment; ~~the judgment is paid;~~ but interest shall not be allowed from the date of deposit on so much thereof as shall have been paid into court as provided in this Article."

SECTION 2. G.S. 136-119 reads as rewritten:

"§ 136-119. Costs and appeal.

The Department of Transportation shall pay all court costs taxed by the court. Either party shall have a right of appeal to the Supreme Court for errors of law committed in any proceedings provided for in this Article in the same manner as in any other civil actions and it shall not be necessary that an appeal bond be posted.

The court having jurisdiction of the condemnation action instituted by the Department of Transportation to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable cost, disbursements, and expenses, including reasonable attorney fees, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if (i) the final judgment is that the Department of Transportation cannot acquire real property by condemnation; ~~or~~ (ii) the proceeding is abandoned by the Department of ~~Transportation~~ Transportation; or (iii) the final judgment exceeds the amount of the initial deposit by twenty-five percent (25%) or more. Under (iii) of this section, attorneys' fees awarded shall not exceed one-third of the difference between the judgment award, plus interest, and the initial deposit.

The judge rendering a judgment for the plaintiff in a proceeding brought under G.S. 136-111 awarding compensation for the taking of property, shall determine and award or allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of the judge reimburse such plaintiff for his reasonable cost, disbursements and expenses, including



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1 reasonable attorney, appraisal, and engineering fees, actually incurred because of such
2 proceeding."

3 **SECTION 3.** This act becomes effective July 1, 2014, and applies to condemnation
4 actions filed on or after that date.