

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 272

Short Title: DOT Condemnation Changes. (Public)

Sponsors: Representatives Stam, Jackson, and Bryan (Primary Sponsors).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Judiciary Subcommittee B, if favorable, Transportation.

March 12, 2013

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE MEASURE OF DAMAGES IN A CONDEMNATION ACTION INITIATED BY THE DEPARTMENT OF TRANSPORTATION, 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 ATTORNEY 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. 136-112 reads as rewritten:

"§ 136-112. **Measure of damages.**

The following shall be the measure of damages to be followed by the commissioners, jury or judge who determines the issue of ~~damages~~; damages shall be as provided in G.S. 40A-63 and G.S. 40A-64.

(1) ~~Where only a part of a tract is taken, the measure of damages for said taking shall be the difference between the fair market value of the entire tract immediately prior to said taking and the fair market value of the remainder immediately after said taking, with consideration being given to any special or general benefits resulting from the utilization of the part taken for highway purposes.~~

(2) ~~Where the entire tract is taken the measure of damages for said taking shall be the fair market value of the property at the time of taking."~~

**SECTION 2.** 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 3.** 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.



1 The court having jurisdiction of the condemnation action instituted by the Department of  
2 Transportation to acquire real property by condemnation shall award the owner of any right, or  
3 title to, or interest in, such real property such sum as will in the opinion of the court reimburse  
4 such owner for his reasonable cost, disbursements, and expenses, including reasonable attorney  
5 ~~fees, fees not to exceed the prevailing hourly rate in the jurisdiction where tried,~~ appraisal, and  
6 engineering fees, actually incurred because of the condemnation proceedings, if (i) the final  
7 judgment is that the Department of Transportation cannot acquire real property by  
8 condemnation; ~~or~~(ii) the proceeding is abandoned by the Department of ~~Transportation-~~  
9 Transportation; or (iii) the final judgment exceeds the amount of the initial deposit by  
10 twenty-five percent (25%) or more.

11 The judge rendering a judgment for the plaintiff in a proceeding brought under  
12 G.S. 136-111 awarding compensation for the taking of property, shall determine and award or  
13 allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of the judge  
14 reimburse such plaintiff for his reasonable cost, disbursements and expenses, including  
15 reasonable attorney, appraisal, and engineering fees, actually incurred because of such  
16 proceeding."

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