WEST VIRGINIA CODE: §54-2-14

§54-2-14. Entry by state or its political subdivisions.

If the applicant be the State of West Virginia, or any political subdivision thereof, on filing its petition as authorized in this article, and if the court or judge is satisfied that the purpose for which the land or property is sought to be condemned is a public use for which private property may be appropriated on compensating the owner, the court or judge shall, at the request of the applicant, make an order permitting the applicant at once to enter upon, take possession, appropriate and use the land sought to be condemned for the purposes stated in the petition. The revenues applicable to the payment of any damages or compensation to which the owner is entitled, and which shall be awarded or assessed in his favor, shall be deemed sufficient security and to have been pledged for such payment, and no bond or further security shall be required of the applicant.

If the applicant shall enter upon or take possession of property under the authority of this section, and shall do any work thereon and injure such land or property, it shall not be entitled, without the consent of the defendant, to abandon the proceedings for the condemnation thereof, but such proceedings shall proceed to final award or judgment, and the applicant shall pay to the owner of the land the amount of compensation and damages as finally determined in such proceedings, with interest at ten percent from the date of the filing of the petition.

Before entry, taking possession, appropriation, or use, the applicant shall pay into court such sum as it shall estimate to be the fair value of the property, or estate, right, or interest therein, sought to be condemned, including, where applicable, the damages, if any, to the residue beyond the benefits, if any, to such residue, by reason of the taking.

When, after payment into court as provided under the authority of this section, the amount allowed by the report of the condemnation commissioners, or the verdict of a jury, if there be one, exceeds the amount which has been paid into court, the excess amount, together with interest thereon at ten percent from the date of the filing of the petition to the date of payment of the excess amount into court, may, at any time within three months after the report or verdict of a jury, as the case may be, has been confirmed and ordered to be recorded, be paid into court by the applicant for the persons entitled thereto.

If the amount which has been paid into court pursuant to this section exceeds the amount allowed by the report of the condemnation commissioners, or the verdict of a jury, if there be one, the excess shall be repaid to the applicant out of such fund in court, or, if the amount remaining in the fund be insufficient, then the persons to whom the fund, or any part thereof, has been paid, shall reimburse the applicant, on a pro rata basis, but without interest.

If the amount allowed by the report of the condemnation commissioners, or the verdict of

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the jury, if there be one, does not exceed the sum paid into court and it shall appear that the latter amount was tendered by the applicant to the defendant prior to the institution of the proceeding, the defendant shall pay the costs of the proceeding in the trial court unless the refusal to accept the tender was based on some ground other than that of insufficiency of compensation and any damages.

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