WEST VIRGINIA CODE: §54-2-14a

§54-2-14a. Alternative method for condemnation by state or its political subdivision.

Prior to any report by condemnation commissioners, or verdict of a jury, if the applicant be the State of West Virginia or any political subdivision thereof, and be otherwise authorized by law to make payment as required in this section, on filing its petition as authorized in this article, and if the court or judge is satisfied that the purpose for which the property or interest or right therein, is sought to be condemned is a public use for which private property may be appropriated on compensating the owner, the applicant may thereupon acquire title to, and enter upon, take possession of, appropriate and use the property, or interest or right therein, sought to be condemned for the purposes stated in the petition by following the method provided in this section.

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. The court or judge may, at the request of any party to the proceeding, require the clerk of the court to give an additional bond, adequate to protect such deposit with the clerk; and if such bond is required, the applicant shall pay the necessary premiums.

Upon such payment into court, the title to the property, or interest or right therein, sought to be condemned, shall be vested in the applicant, and 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 property, or interest or right therein, sought to be condemned for the purposes stated in the petition, but the owners of such property, or interest or right therein, at the time of such payment, including lienors and conflicting claimants, shall have such title, interest, or right in the money paid into court as they had in the property, or interest or right therein, sought to be condemned, and all liens by deed of trust, judgment or otherwise, upon such property, or interest or right therein, shall be transferred to such fund in court, subject to the provisions of this section. The title in the applicant shall be defeasible until the compensation and any damages are determined in the condemnation proceedings and the applicant has paid any excess amount into court.

Upon petition to the court or judge, any person entitled thereto may be paid his pro rata share of the money paid into court, or a portion thereof, as ordered by the court or judge, but the acceptance of such payment shall not limit the amount to be allowed by the report of the condemnation commissioners, or the verdict of a jury, if there be one. Proceedings for the distribution of the money so paid into court shall be conducted as provided in section eighteen of this article to the extent that the provisions therein are applicable. No party to the condemnation proceeding shall be permitted to introduce evidence of such payment or of the amount so paid into court, or of any amount which has been accepted by any party, nor shall reference be made thereto during the course of the trial.

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If the applicant shall enter upon or take possession of the property, under the authority of this section, and shall injure the property, the applicant shall not be entitled, without the consent of the defendant, to abandon the proceeding for the condemnation thereof, but such proceeding shall proceed to final award or judgment, and the amount of compensation and any damages as finally determined in such proceeding shall be paid in the manner provided by this section.

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. In no other instance shall interest be allowed on payments made pursuant to the provisions of this section. 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 applicant has the right to abandon the proceeding and does so, the amount which has been paid into court pursuant to this section shall be repaid to the applicant from such fund in court and by any persons to whom the fund, or any part thereof, has been paid, on a pro rata basis, but without interest.

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

When the report of the condemnation commissioners, or the verdict of a jury, if there be one, has been confirmed and ordered to be recorded, and the excess amount, if any, has been paid into court as provided herein, the title to the property, or interest or right therein, so paid for shall be absolutely and indefeasibly vested in the applicant in fee simple or to the extent described in the petition: Provided, That in the case of a public road title to the right-of-way only shall absolutely vest in the applicant.

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