

## WEST VIRGINIA CODE: §54-2-18

### **§54-2-18. Payment to clerk; disposition of money paid into court; determination of conflicting claims; notice to condemnee.**

Payment of an award or judgment, or any money, under any of the provisions of this chapter may be made to the clerk of the court in which such proceeding is had, and such payment shall be deemed to be a payment into court. Within ten days after the payment of an award, judgment or money into court pursuant to the provisions of this chapter, the condemnor shall serve notice upon the parties of record except nonresidents and unknown parties whose interests the applicant seeks to condemn, or upon their counsel of record. Service of notice by registered or certified mail to the parties' last-known addresses shall be deemed sufficient. Notwithstanding any other provision of this chapter to the contrary, failure to serve such notice shall result in the accrual of interest at ten percent upon the award, judgment or money paid into court from the filing of the petition until such notice is served or until disbursement be made to the persons entitled thereto. The clerk to whom payment is so made, together with the surety on his official bond, shall be liable therefor, as for other moneys collected by him by virtue of his office.

Upon money being paid into court, pursuant to the provisions of this chapter, and the court or judge being satisfied that the persons entitled thereto are before the court or judge, it or he shall make such distribution or disposition of such money as is proper, having due regard to the interest of all persons therein, and in what proportions such money is properly payable.

If it shall appear that the petition states the persons or classes of persons, who, in the opinion of the applicant, are vested with the superior right or claim of title in the property, or interest or right therein, condemned or sought to be condemned or in the amount allowed or to be allowed by the report of the condemnation commissioners, or the verdict of a jury, if there be one, and it does not appear from the record or otherwise that there is any denial or dispute, by any person or party in interest, of such statement in the petition, the court or judge may direct that the money paid into court, after withholding therefrom any sum necessary for payment of any taxes which are a lien upon the property, interest, or right, be disbursed and distributed in accordance with the statement in the petition, among the persons entitled thereto, except that with respect to any persons appearing to be infants, incompetents, incarcerated convicts, or under any other legal disability, the court or judge shall inquire into their rights or claims, independent of any statement in the petition, and any order for disbursement or distribution shall conserve and protect the rights or claims of such persons in and to the money paid into court.

If it shall appear to the court or judge, from the record or otherwise, that there exists a controversy among claimants to the money paid into court, or to the ownership of the property, or interest or right therein, condemned or sought to be condemned, the court or judge shall enter an order setting a time for hearing the case and determining the rights and

claims of all persons entitled to the money paid into court or to any interest or share therein. To aid in properly disposing of the money, the court or judge may appoint a commissioner to take evidence of the conflicting claims. The court or judge may direct publication to be made requiring all who are interested to appear at the time set for hearing the case to present their respective claims. Such costs shall be allowed to the prevailing persons as the court or judge shall direct. Upon a determination by the court or judge of the rights and claims of the persons entitled to the money paid into court, with or without a report of such commissioner, judgment shall be entered directing the disbursement or distribution, after withholding for taxes as provided in the next preceding paragraph, to the persons entitled thereto, provided that the rights or claims of persons under legal disability shall be protected as provided in the next preceding paragraph.