

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 699

(By Mr. Sibert <sup>and</sup> Mr. St. Pierre)



PASSED March 13, 1965

In Effect thirty days from Passage



FILED IN THE OFFICE OF  
JAMES H. HENNING  
SECRETARY OF STATE  
THIS DATE 3-19-65

#699

**ENROLLED**  
**House Bill No. 699**  
(By MR. SEIBERT and MR. STEPTOE)

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[Passed March 13, 1965; in effect ninety days from passage.]

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AN ACT to amend and reenact section eighteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eminent domain, certain procedures in eminent domain matters, payment into court, notice of such payment to the parties of record, accrual of interest upon failure to give such notice, the disposition of such payment and the determination of conflicting claims.

*Be it enacted by the Legislature of West Virginia:*

That section eighteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 2. Procedure.****Section 18. Payment to Clerk; Disposition of Money****2 Paid into Court; Determination of Conflicting Claims;****3 Notice to Condemnee.**—Payment of an award or judg-

4 ment, or any money, under any of the provisions of this

5 chapter may be made to the clerk of the court in which

6 such proceeding is had, and such payment shall be deemed

7 to be a payment into court. Within ten days after the

8 payment of an award, judgment or money into court pur-

9 suant to the provisions of this chapter, the condemnor

10 shall serve notice upon the parties of record except non-

11 residents and unknown parties whose interests the ap-

12 plicant seeks to condemn, or upon their counsel of record.

13 Service of notice by registered or certified mail to the

14 parties<sup>2</sup> last known addresses shall be deemed sufficient.

15 Notwithstanding any other provision of this chapter to

16 the contrary, failure to serve such notice shall result in

17 the accrual of interest at six per cent upon the award,

18 judgment or money paid into court until such notice is

19 served or until disbursement be made to the persons

20 entitled thereto. The clerk to whom payment is so made,

21 together with the surety on his official bond, shall be liable  
22 therefor, as for other moneys collected by him by virtue  
23 of his office.

24 Upon money being paid into court, pursuant to the pro-  
25 visions of this chapter, and the court or judge being  
26 satisfied that the persons entitled thereto are before the  
27 court or judge, it or he shall make such distribution or  
28 disposition of such money as is proper, having due regard  
29 to the interest of all persons therein, and in what pro-  
30 portions such money is properly payable.

31 If it shall appear that the petition states the persons or  
32 classes of persons, who, in the opinion of the applicant,  
33 are vested with the superior right or claim of title in the  
34 property, or interest or right therein, condemned or  
35 sought to be condemned or in the amount allowed or to  
36 be allowed by the report of the condemnation commis-  
37 sioners, or the verdict of a jury, if there be one, and it  
38 does not appear from the record or otherwise that there  
39 is any denial or dispute, by any person or party in in-  
40 terest, of such statement in the petition, the court or judge  
41 may direct that the money paid into court, after with-

42 holding therefrom any sum necessary for payment of any  
43 taxes which are a lien upon the property, interest, or  
44 right, be disbursed and distributed in accordance with  
45 the statement in the petition, among the persons entitled  
46 thereto, except that with respect to any persons appearing  
47 to be infants, incompetents, incarcerated convicts, or  
48 under any other legal disability, the court or judge shall  
49 inquire into their rights or claims, independent of any  
50 statement in the petition, and any order for disbursement  
51 or distribution shall conserve and protect the rights or  
52 claims of such persons in and to the money paid into  
53 court.

54 If it shall appear to the court or judge, from the record  
55 or otherwise, that there exists a controversy among claim-  
56 ants to the money paid into court, or to the ownership  
57 of the property, or interest or right therein, condemned  
58 or sought to be condemned, the court or judge shall enter  
59 an order setting a time for hearing the case and deter-  
60 mining the rights and claims of all persons entitled to  
61 the money paid into court or to any interest or share  
62 therein. To aid in properly disposing of the money, the

63 court or judge may appoint a commissioner to take evi-  
64 dence of the conflicting claims. The court or judge may  
65 direct publication to be made requiring all who are in-  
66 terested to appear at the time set for hearing the case  
67 to present their respective claims. Such costs shall be  
68 allowed to the prevailing persons as the court or judge  
69 shall direct. Upon a determination by the court or judge  
70 of the rights and claims of the persons entitled to the  
71 money paid into court, with or without a report of such  
72 commissioner, judgment shall be entered directing the  
73 disbursement or distribution, after withholding for taxes  
74 as provided in the next preceding paragraph, to the per-  
75 sons entitled thereto, provided that the rights or claims  
76 of persons under legal disability shall be protected as  
77 provided in the next preceding paragraph.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*O. Ray Parker*  
Chairman Senate Committee

*James W. Loop*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. Howard Meyer*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Howard Holman*  
President of the Senate

*H. Reba White*  
Speaker House of Delegates

The within *approved* this the *19*  
day of *March*, 1965.

*Archie C. Smith*  
Governor



Presented to Governor's Office

3/19/65

12:00 noon