

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 261

Short Title: DOT Condemnation Amendments.

(Public)

Sponsors: Representative Gamble.

Referred to: Judiciary III.

March 18, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE PROCEDURES EMPLOYED BY THE DEPARTMENT  
3 OF TRANSPORTATION IN CONDEMNING PROPERTY.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 136-113 reads as rewritten:

6 **"§ 136-113. Interest as a part of just compensation.**

7 To ~~said~~the amount awarded as damages by the commissioners or by a jury or judge,  
8 the judge shall, as a part of just compensation, add interest at ~~the legal rate as provided in~~  
9 ~~G.S. 24-1 on said~~ a rate and in an amount based on a 'prudent investor standard' (what a  
10 prudent investor would have earned investing the amount so as to produce a reasonable  
11 return while maintaining safety of principal) on the amount from the date of taking to  
12 ~~the date of judgment; judgment. but interest~~ Interest shall not be allowed from the date of  
13 ~~deposit on so much thereof as shall have been paid into the court~~ the amount deposited with  
14 the court, under G.S. 136-103, and disbursed as provided in this Article.

15 The judge, in each case, shall determine in what manner in which the interest should  
16 be compounded according to generally accepted practices of compounding."

17 Sec. 2. G.S. 136-109 is amended by adding a new subsection to read:

18 "(e) When no commissioners are appointed, under subsection (a) of this section,  
19 then each party shall reveal to all other parties the number of appraisals of the property  
20 to be taken made on behalf of the party and the persons making those appraisals, as part  
21 of the discovery proceedings in any trial on the issue of just compensation."

22 Sec. 3. Chapter 136 of the General Statutes is amended by adding a new  
23 section to read:

24 **"§ 136-112.1. Contribution towards improvements.**

1 Whenever the Department of Transportation determines, as part of planning for a  
2 project, that certain improvements to private property must be made, such as driveways,  
3 culverts, or bridges, in connection with a highway project and during the negotiation  
4 process for taking of land subject to condemnation, the property owner proposes an  
5 alternative to provide the improvement that would meet the needs of the project and  
6 better meet the needs of the owner, the Department shall pay to the owner, who shall  
7 construct the improvement to the Department's satisfaction, the funds that were  
8 scheduled to pay for the improvement first proposed by the Department. The amount  
9 paid by the Department for the improvement shall not be considered a part of the award  
10 in any condemnation action."

11 Sec. 4. G.S. 136-119 reads as rewritten:

12 **"§ 136-119. Costs and appeal.**

13 The Department of Transportation shall pay all court costs taxed by the court. Either  
14 party shall have a right of appeal to the Supreme Court for errors of law committed in  
15 any proceedings provided for in this Article in the same manner as in any other civil  
16 actions and it shall not be necessary that an appeal bond be posted.

17 The court having jurisdiction of the condemnation action instituted by the  
18 Department of Transportation to acquire real property by condemnation shall award the  
19 owner of any right, or title to, or interest in, such real property such sum as will in the  
20 opinion of the court reimburse such owner for his reasonable cost, disbursements, and  
21 expenses, including reasonable attorney fees, appraisal, and engineering fees, actually  
22 incurred because of the condemnation proceedings, if (i) the final judgment is that  
23 the Department of Transportation cannot acquire real property by condemnation; ~~or~~ (ii)  
24 the proceeding is abandoned by the Department of ~~Transportation~~ Transportation; or (iii)  
25 the final judgment is that the Department of Transportation shall pay more to the  
26 property owner than was deposited with the court pursuant to G.S. 136-103.

27 The judge rendering a judgment for the plaintiff in a proceeding brought under G.S.  
28 136-111 awarding compensation for the taking of property, shall determine and award  
29 or allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of  
30 the judge reimburse such plaintiff for his reasonable cost, disbursements and expenses,  
31 including reasonable attorney, appraisal, and engineering fees, actually incurred because  
32 of such proceeding."

33 Sec. 5. This act is effective upon ratification.