

HOUSE BILL No. 2800

By Committee on Judiciary

2-10

AN ACT concerning real property; relating to eminent domain; amending K.S.A. 26-507 and K.S.A. 2003 Supp. 26-508 and 26-518 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 26-507 is hereby amended to read as follows: 26-507. (a) *Payment of award; vesting of rights.* If the plaintiff desires to continue with the proceeding as to particular tracts it shall, within ~~thirty~~ ~~(30)~~ 30 days from the time the appraisers' report is filed, pay to the clerk of the district court the amount of the appraisers' award as to those particular tracts and court costs accrued to date, including appraisers' fees and relocation payments and assistance. Such payment shall be without prejudice to plaintiff's right to appeal from the appraisers' award. Upon such payment being made the title, easement or interest appropriated in the land condemned shall thereupon immediately vest in the plaintiff, and it shall be entitled to the immediate possession of the land to the extent necessary for the purpose for which taken and consistent with the title, easement or interest condemned. The plaintiff shall be entitled to all the remedies provided by law for the securing of such possession.

(b) *Abandonment.* If the plaintiff does not make the payment prescribed in subsection (a) hereof for any of the tracts described in the petition, within thirty (30) days, from the time the appraisers' report is filed, the condemnation is abandoned as to those tracts, and judgment for costs, including the appraisers' fees together with judgment in favor of the defendant for his reasonable expenses incurred in defense of the action, shall be entered against the plaintiff. After such payment is made by the plaintiff to the clerk of the court, as provided in subsection (a) hereof, the proceedings as to those tracts for which payment has been made can only be abandoned by the mutual consent of the plaintiff and the parties interested in the award.

Sec. 2. K.S.A. 2003 Supp. 26-508 is hereby amended to read as follows: 26-508. If the plaintiff, or any defendant, is dissatisfied with the award of the appraisers, such party, within 30 days after the filing of the appraisers' report, may appeal from the award by filing a written notice of appeal with the clerk of the district court and paying the docket fee of

1 a new court action. In the event any parties shall perfect an appeal, copies
2 of such notice of appeal shall be mailed to all parties affected by such
3 appeal, within three days after the date of the perfection thereof. An
4 appeal by the plaintiff or any defendant shall bring the issue of damages
5 to all interests in the tract before the court for trial *de novo*. The appeal
6 shall be docketed as a new civil action and tried as any other civil action.
7 The only ~~issue~~ *issues* to be determined therein shall be the compensation
8 required by K.S.A. 26-513, and amendments thereto, *and the adequacy*
9 *of fair and reasonable relocation payments and assistance as provided by*
10 *law*.

11 Sec. 3. K.S.A. 2003 Supp. 26-518 is hereby amended to read as fol-
12 lows: 26-518. Whenever federal funding is not involved, and real property
13 is acquired by any condemning authority through negotiation in advance
14 of a condemnation action or through a condemnation action, and which
15 acquisition will result in the displacement of any person, the condemning
16 authority *or appraiser's report* shall:

17 (a) Provide the displaced person, as defined in the federal uniform
18 relocation assistance and real property acquisition policies act of 1970,
19 fair and reasonable relocation payments and assistance to or for displaced
20 persons.

21 (b) Fair and reasonable relocation payments and assistance to or for
22 displaced persons as provided under sections 202, 203 and 204 of the
23 federal uniform relocation assistance and real property acquisition poli-
24 cies act of 1970, and amendments thereto, shall be deemed fair and rea-
25 sonable relocation payments and assistance pursuant to this section.

26 (c) Nothing in this section shall preclude the voluntary negotiation of
27 fair and reasonable relocation payments and assistance between the dis-
28 placed person and condemning authority. If such negotiations lead to
29 agreement between the displaced person and the condemning authority,
30 that agreement shall be deemed fair and reasonable.

31 Sec. 4. K.S.A. 26-507 and K.S.A. 2003 Supp. 26-508 and 26-518 are
32 hereby repealed.

33 Sec. 5. This act shall take effect and be in force from and after its
34 publication in the statute book.

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