

House Bill 1148

By: Representatives Pezold of the 133rd, Caldwell of the 20th, and Turner of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 22 and Article 1 of Chapter 3 of Title 32 of the Official Code
2 of Georgia Annotated, relating to general provisions relative to eminent domain and
3 acquisition of property for transportation purposes, respectively, so as to provide for
4 attorney's fees and expenses of trial in appeals to condemnation compensation award
5 amounts; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to general
9 provisions relative to eminent domain, is amended by revising Code Section 22-1-12, relating
10 to reimbursement to property owner of reasonable costs and expenses associated with
11 condemnation proceedings, as follows:

12 "22-1-12.

13 In all actions where a condemning authority exercises the power of eminent domain, the
14 court having jurisdiction of a proceeding instituted by a condemnor to acquire real property
15 by condemnation shall award the owner of any right or title to or interest in such real
16 property such sum as will in the opinion of the court reimburse such owner for his or her
17 reasonable costs and expenses, including reasonable attorney, appraisal, and engineering
18 fees, actually incurred because of the condemnation proceedings, and expenses of
19 litigation, including investigation expenses, expert witness fees, and other expenses which
20 relate to the preparation for trial, if:

- 21 (1) The final judgment is that the condemning authority cannot acquire the real property
- 22 by condemnation; or
- 23 (2) The proceeding is abandoned by the condemning authority."

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SECTION 2.

25 Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated, relating to
 26 general provisions relative to acquisition of property for transportation purposes, is amended
 27 by revising Code Section 32-3-19, relating to jury's award in appeals to condemnation
 28 compensation, as follows:

29 "32-3-19.

30 (a) The verdict of the jury shall have respect to the lands described in the declaration of
 31 taking as set forth in Code Section 32-3-6, or such interest therein as may be described in
 32 said declaration, or to any separate claim against the property or interest therein as may be
 33 ordered and may be molded under the direction of the court so as to do complete justice
 34 and avoid confusion of interest. The court shall give such direction as to the disposition
 35 of the fund as shall be proper according to the rights of the several respondents.

36 (b) After the verdict of the jury, the court shall, in instances where no motion for new trial
 37 or notice of appeal is filed within the time provided for by law or where such verdict has
 38 been affirmed by a proper appellate court and the remittitur from such court has been made
 39 the judgment of the superior court, enter judgment in favor of the condemnee and against
 40 the condemnor in the amount of such verdict, together with the accrued court costs,
 41 reasonable attorney's fees, and expenses of litigation, including investigation expenses,
 42 expert witness fees, and other expenses which relate to the preparation for trial. ~~which~~
 43 Such judgment shall be immediately credited with the sum of money deposited by the
 44 condemnor with the declaration of taking and which shall bear interest as provided in
 45 subsection (c) of this Code section; and, upon the failure or refusal of the condemnor
 46 immediately to deposit such increase in such sum into the registry of the court, as well as
 47 the accrued court costs and expenses provided for in this subsection, it shall be the duty of
 48 said clerk to issue execution therefor.

49 (c) After just and adequate compensation has been ascertained and established by
 50 judgment, the judgment shall include, as part of the just and adequate compensation
 51 awarded, interest from the date of taking to the date of payment pursuant to final judgment
 52 at the rate of 7 percent per annum on the amount awarded by final judgment as the value
 53 of the property as of the date of taking; but interest shall not be allowed on so much thereof
 54 as shall have been paid into the court and was subject to withdrawal by the condemnee
 55 without the requirement of posting a bond as required by Code Section 32-3-15. However,
 56 if the condemnee posted the bond and withdrew the additional deposit made after the
 57 special master's award and is later awarded a sum greater than the original deposit but less
 58 than the special master's award, the condemnee shall not be entitled to interest on this
 59 additional deposit for the time he or she had use of the money; but he or she shall be
 60 entitled to receive the percentage of the reasonable cost of the bond that the sum awarded

61 over the original deposit bears to the sum of the special master's award over the original
62 deposit. If the condemnee is later awarded a sum that exceeds the special master's award
63 and he or she has posted bond and withdrawn the additional deposit, he or she shall not be
64 entitled to interest on this additional deposit for the time he or she had use of the money,
65 but he or she shall be entitled to the reasonable cost of the bond.

66 (d) No sum so paid into the court shall be charged with commissions or poundage.

67 (e) In any event, the case shall be transferred, under the conditions set out in this Code
68 section, to the closed docket. Nothing in this Code section shall be construed as in any way
69 affecting the title acquired by the condemnor by virtue of the declaration of taking as
70 provided for in Code Section 32-3-7."

71 **SECTION 3.**

72 All laws and parts of laws in conflict with this Act are repealed.