

OKLAHOMA STATUTES
TITLE 27. EMINENT DOMAIN

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§27-1. State lands subject to right of eminent domain

The lands set apart for the use and benefit of the State of Oklahoma for public schools, for public buildings and educational institutions, either by congressional enactment or executive reservation, are hereby declared to be subject to the right of eminent domain in behalf of any public enterprises now authorized by law to condemn private property for sewers, railroads, side tracks, station grounds and other municipal or corporate public uses, and all of the laws of this state with reference to the taking of private property for public use are hereby made applicable to the said lands. R.L. 1910, § 3183. Amended by Laws 2016, c. 117, § 1.

§27-2. Condemnation procedure for state lands.

Before any public corporation, municipality or other entity or person authorized to exercise the right of eminent domain under existing law, shall have the right to condemn or take any part of such lands, a plat of the grounds proposed to be taken, showing the part of the particular subdivision, shall be prepared and filed with the Governor of said state, together with a sworn statement of the engineer or superintendent in charge of such public work, that the taking of such lands is necessary to the exercise of the powers of such municipality or corporation; and it shall be the duty of the Governor to appoint three disinterested persons, resident householders of the county in which such land is located, who shall first take an oath to fairly and impartially appraise the value of the ground so taken, and the damage to the remaining parts of such subdivision by the taking thereof, and the said appraisers shall notify the Governor and the officers of such corporation of the time and place when they will proceed to appraise such damage, and at such time and place, upon actual view of the premises, the said appraisers shall meet and appraise the damage, in writing, and return one copy thereof under their signatures to the Governor of the state, and one copy to the principal officer of such corporation or municipality in charge of such construction, and if either party is aggrieved they may, within ten (10) days, appeal to the district court of the county where such land is located, in the same manner that appeals are taken from judgment of justices of the peace, where the amount of such damage shall be tried by a jury, as other causes are tried. In case no appeal is taken from the award of such appraisers, such corporation or municipality shall have the right to occupy such grounds by the paying into the State Treasury the amount of such award. In case either party appeals, such corporation or municipality shall have the right to occupy such grounds upon giving bond in treble the amount of the award, with sureties to be approved by the clerk of the district court where such appeal is pending, to the effect that the corporation or municipality will pay said award if such appeal be dismissed, or shall pay any judgment finally rendered in said action if the same shall be tried.

R.L. 1910, § 3184.

§27-3. Compensation of appraisers of state lands

The said appraisers shall receive compensation for the time actually engaged in making such appraisal, to be verified by them under their oath, and which shall be paid, in addition to the award, by the company or corporation requiring their services.

R.L. 1910, § 3185. Amended by Laws 2016, c. 117, § 2.

§27-4. Water-power companies - Right of eminent domain.

Any water power company, organized under the laws of this state, shall have power to exercise the right of eminent domain in like manner as railroad companies, for the purpose of securing sites for the erection of water power plants, together with the necessary dams over any nonnavigable stream and sites for the storage of water, and of securing rights-of-way for the necessary flumes and conduits for the purpose of conducting water for public or private consumption, and generating power, and for the purpose of securing rights-of-way for poles, wire and cables for transferring and transmitting electricity generated by water.

R.L. 1910, § 3187.

§27-5. Local governments and cemeteries - Eminent domain.

Any county, city, town, township, school district, or board of education, or any board or official having charge of cemeteries created and existing under the laws of this state, shall have power to condemn lands in like manner as railroad companies, for highways, rights-of-way, building sites, cemeteries, public parks and other public purposes.

R.L. 1910, § 3188.

§27-6. Private person or corporation - Eminent domain by.

Any private person, firm or corporation shall have power to exercise the right of eminent domain in like manner as railroad companies for private ways of necessity or for agriculture, mining and sanitary purposes.

R.L. 1910, § 3189.

§27-7. Light, heat or power by electricity or gas - Eminent domain same as railroads.

A. Except as otherwise provided in this section, any person, firm or corporation organized under the laws of this state, or authorized to do business in this state, to furnish light, heat or power by electricity or gas, or any other person, association or firm engaged in furnishing lights, heat or power by electricity or gas shall have and exercise the right of eminent domain in the same

manner and by like proceedings as provided for railroad corporations by laws of this state.

B. The power of eminent domain shall not be used for the siting or building of wind turbines on private property.

Added by Laws 1917, c. 230, p. 431, § 3, emerg. eff. March 5, 1917.

Amended by Laws 2011, c. 200, § 1.

§27-7.1. Repealed by Laws 2016, c. 117, § 4.

§27-7.2. Repealed by Laws 2016, c. 117, § 4.

§27-7.3. Repealed by Laws 2016, c. 117, § 4.

§27-7.4. Repealed by Laws 2016, c. 117, § 4.

§27-7.5. Repealed by Laws 2016, c. 117, § 4.

§27-7.6. Repealed by Laws 2016, c. 117, § 4.

§27-7.7. Repealed by Laws 2016, c. 117, § 4.

§27-7.8. Repealed by Laws 2016, c. 117, § 4.

§27-7.9. Repealed by Laws 2016, c. 117, § 4.

§27-7.10. Public utility lines - Relocating, rerouting, construction changes, etc. - Expenses and expenditures

In the event a common carrier, in the exercise of the power of eminent domain, or any other power granted hereunder, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any electric transmission or telephone lines, railroads, or properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of such common carrier . The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Added by Laws 1977, c. 25, § 10, eff. Oct. 1, 1977. Amended by Laws 2016, c. 117, § 3.

§27-7.11. Repealed by Laws 2016, c. 117, § 4.

§27-8. Common carriers - Joint or union station or terminal.

Any person, firm or corporation organized under the laws of this state, or authorized to do business in this state, to furnish transportation of persons as common carriers, with permission of the Corporation Commission, after hearing and showing that public necessity and convenience requires the establishment of a joint or union station or terminal at any point served, shall have and exercise the right of eminent domain to acquire joint user of any existing bus station or terminal property, in the same manner provided by law for the exercise of eminent domain by railroad corporations.

Laws 1951, p. 65, § 1.

§27-9. Application.

The provisions of this act shall be applicable to the acquisition of real property under the laws of this state for public use in any project or program in which federal, state or local funds are used. Laws 1971, c. 355, § 1, eff. July 1, 1972.

§27-10. Reimbursement of owner for expenses after acquisition.

Any person, agency or other entity acquiring real property for public use under the laws of this state shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner for expenses he necessarily incurred for:

1. Recording fees, transfer taxes and similar expenses incidental to conveying such real property;
2. Penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering such real property; and
3. The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring entity, or the effective date of possession of such real property by the acquiring entity, whichever is the earlier.

Laws 1971, c. 355, § 2, eff. July 1, 1972.

§27-11. Reimbursement of expenses when property not acquired.

Where a condemnation proceeding is instituted by any person, agency or other entity to acquire real property for use as provided in Section 9 of this title and

1. The final judgment is that the real property cannot be acquired by condemnation;
2. The proceeding is abandoned; or
3. If the award of the jury exceeds the award of the court-appointed commissioners by at least ten percent (10%), the owner of any right, title or interest in such real property may be paid such

sum as in the opinion of the court will reimburse such owner for his reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings. Such determination by the court shall be appealable to the Supreme Court in the same manner as any other final order. The final award of such sums will be paid by the person, agency or other entity which sought to condemn the property.

Laws 1971, c. 355, § 3, eff. July 1, 1972; Laws 1975, c. 354, § 1, eff. Oct. 1, 1975.

§27-12. Inverse condemnation proceedings - Reimbursement of expenses.

Where an inverse condemnation proceeding is instituted by the owner of any right, title or interest in real property because of use of his property in any public program or project described in Section 1 of this act, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, or the state's attorney effecting a settlement of any such proceeding, shall determine an award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or the acquiring entity's attorney, respectively, reimburse such plaintiff for his reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding. A determination by the court shall be appealable to the Supreme Court in the same manner as any other final order.

Laws 1971, c. 355, § 4, eff. July 1, 1972.

§27-13. Policies.

Any person, acquiring agency or other entity acquiring real property for any public project or program described in Section 9 of this title shall comply with the following policies:

1. Every reasonable effort shall be made to acquire, expeditiously, real property by negotiation.

2. Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property, except that the head or governing body of the entity acquiring real property, if so mandated by federal law or regulation, may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value as such value is defined by federal law or regulation.

3. Before the initiation of negotiations for real property, an amount shall be established which is reasonably believed to be just compensation therefor and such amount shall be promptly offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of such real property.

Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

4. No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with the state court, in accordance with applicable law, for the benefit of the owner of an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

5. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling, as required by the Oklahoma Relocation Assistance Act, will be available, or to move his business or farm operation without at least ninety (90) days' written notice from the date by which such move is required.

6. If any owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

7. In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

8. If an interest in real property is to be acquired by exercise of power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

9. If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire that remnant shall be made. For the purposes of this section, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the property of the owner which has little or no value or utility to the owner.

10. A person whose real property is being acquired in accordance with this title may, after the person has been fully informed of his

right to receive just compensation for such property, donate such property, any part thereof, any interest therein, or any compensation paid therefor, as such person shall determine.

11. As used in this section:

- a. "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information; and
- b. "Acquiring agency" means:
 - (1) a state agency which has the authority to acquire property by eminent domain pursuant to state law, and
 - (2) a state agency or person which does not have such authority, to the extent provided by regulation.

Laws 1971, c. 355, § 5, eff. July 1, 1972; Laws 1988, c. 315, § 2, emerg. eff. July 6, 1988.

§27-14. Buildings, structures and other improvements - Taking with real property.

A. Where any interest in real property is acquired, an equal interest shall be acquired in all buildings, structures or other improvements located upon the real property which are required, by the head of the acquiring entity, to be removed from such real property or which he determines to be adversely affected by the use to which such real property will be put.

B. For the purpose of determining the just compensation to be paid for any building, structure or other improvement required to be acquired as by subsection A of this section, such building, structure or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure or improvement at the expiration of his term, and the fair market value which such building, structure or improvement contributes to the fair market value of the real property to be acquired or the fair market value of such building, structure or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

C. Payment under this section shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer and release to the acquiring entity all his right, title and interest in and to such improvements. Nothing in this section shall be construed to deprive

the tenant of any rights to reject payment under this section and to obtain payment for such property interests in accordance with applicable law other than this section.

Laws 1971, c. 355, § 6, eff. July 1, 1972.

§27-15. Effect of statement of policies.

The provisions of Section 5 create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

Laws 1971, c. 355, § 7, eff. July 1, 1972.

§27-16. Just compensation defined.

A. In every case wherein private property is taken or damaged for public use, the person whose property is taken or damaged shall be entitled to just compensation.

B. "Just compensation", as used in subsection A of this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking.

Added by Laws 1991, c. 175, § 1, emerg. eff. May 8, 1991.

§27-17. Resale of surplus eminent domain property.

A. In the event that a portion of the total amount of real property taken by eminent domain under the procedures set forth in Title 27 of the Oklahoma Statutes for a public purpose as described in Section 9 of Title 27 of the Oklahoma Statutes is not used for the purposes for which it was condemned or for another public use by the agency or other entity which acquired the real property, the portion of the real property that is not used shall be declared surplus and shall be first offered for resale to the person from whom the property was taken or the heirs of the person at the appraised value or the original price at which the acquiring agency or entity purchased that portion of the property, whichever is less.

B. For purposes of complying with subsection A of this section, the agency or entity which acquired the real property by condemnation shall notify the former landowner of the right of first refusal by sending notice by certified mail, return receipt requested, to the last-known address of the person as provided by the person. If the mail is returned as not subject to delivery or the former landowner is deceased, notice of the right of first refusal shall be provided by publication in a newspaper of general circulation in the community where the real property is located. The notice shall contain the

name of the former landowner and a legal description of the surplus property. If the offer to repurchase is not accepted within ninety (90) days from the date of notice or if the offer to repurchase is not accepted from the date the resale price on the property is determined, the property may then be sold at public sale.

C. This section shall not apply to conveyances for redevelopment under Sections 38-101 through 38-123 of Title 11 of the Oklahoma Statutes.

Added by Laws 2011, c. 329, § 1, eff. Nov. 1, 2011.

§27-18. Landowner's Bill of Rights.

A. The Attorney General shall prepare a written statement that includes a "Landowner's Bill of Rights" for a property owner whose real property may be acquired by a person, acquiring agency, or other entity through the use of the entity's eminent domain authority under Title 27 or Title 66 of the Oklahoma Statutes. The statement shall be made available to the public and written in plain language designed to be easily understood by the average property owner.

B. The Landowner's Bill of Rights shall notify each property owner of the right to:

1. Notice of the proposed acquisition of the owner's property;
2. A bona fide good-faith effort to negotiate by the entity proposing to acquire the property;
3. An assessment of damages to the owner that will result from the taking of the property;
4. A hearing under Title 27 of the Oklahoma Statutes, including a hearing on the assessment of damages; and
5. An appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages.

C. The statement shall include:

1. The title "Landowner's Bill of Rights"; and
2. A description of:
 - a. the condemnation procedures provided by Title 27 of the Oklahoma Statutes,
 - b. the condemning entity's obligations to the property owner, and
 - c. the property owner's options during a condemnation, including the property owner's right to object to and appeal an amount of damages awarded.

Added by Laws 2012, c. 160, § 1.

§27-21. Expired July 1, 1943.

§27-22. Expired July 1, 1943.

§27-23. Expired July 1, 1943.

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