

THE UNIFORM CONDEMNATION PROCEDURES ACT (EXCERPT)

Act 87 of 1980

213.59 Surrender of possession of property to agency; time and terms; enforcement; granting interim possession to private agency; indemnity bond; appeal; liability for damages; repayment as condition of order setting aside determination of public necessity; delay or denial; escrow payment; relocation; "comparable replacement dwelling" defined.

Sec. 9. (1) If a motion for review under section 6 is not filed, upon expiration of the time for filing the motion for review, or, if a motion for review is filed, upon final determination of the motion, the court shall fix the time and terms for surrender of possession of the property to the agency and enforce surrender by appropriate order or other process. The court also may require surrender of possession of the property after the motion for review filed under section 6 has been heard, determined and denied by the circuit court, but before a final determination on appeal, if the agency demonstrates a reasonable need.

(2) If interim possession is granted to a private agency, the court, upon motion of the owner, may order the private agency to file an indemnity bond in an amount determined by the court as necessary to adequately secure just compensation to the owner for the property taken.

(3) If an order granting interim possession is entered, an appeal from the order or any other part of the proceedings shall not act as a stay of the possession order. An agency is liable for damages caused by the possession if its right to possession is denied by the trial court or on appeal.

(4) Repayment of all sums advanced shall be a condition precedent to entry of a final order setting aside a determination of public necessity.

(5) Although the court shall not order possession to be surrendered to the agency before it orders that the escrow be distributed under section 8(1) or (4) or retained under section 8(2), the court shall not delay or deny surrender of possession because of any of the following:

(a) A motion filed pursuant to section 6a, challenging the agency's decision to reserve its rights to bring federal or state cost recovery actions.

(b) A motion challenging the agency's escrow under section 8.

(c) An allegation that the agency should have offered a higher amount for the property.

(d) An allegation that the agency should have included additional property in its good faith written offer.

(e) Any other reason except a challenge to the necessity of the acquisition filed under section 6.

(6) The payment of escrow, as ordered under subsection (5), must be made no later than 30 days before physical dispossession. If there is a dispute after the payment is made, the dispute shall be resolved at an apportionment hearing held before physical dispossession.

(7) The following special provisions apply if the surrender of possession of property pursuant to the transfer of title to the property in condemnation proceedings requires the relocation of the owner or another occupant:

(a) If the surrender or possession of property requires the relocation of any individual who occupies a residential dwelling on the property, the individual shall not be required to move from his or her dwelling unless he or she has had a reasonable opportunity not to exceed 180 days after the payment date of moving expenses or the moving allowance provided under 1965 PA 40, MCL 213.351 to 213.355, to relocate to a comparable replacement dwelling.

(b) However, if the agency is complying with applicable federal regulations and procedures regarding payment of compensation or relocation requirements, those federal regulations and procedures take precedence over any conflicting provisions in this section.

(8) As used in this section, "comparable replacement dwelling" means any dwelling that is all of the following:

(a) Decent, safe, and sanitary.

(b) Adequate in size to accommodate the occupants.

(c) Within the financial means of the individual.

(d) Functionally equivalent.

(e) In an area not subject to unreasonable adverse environmental conditions.

(f) In a location generally not less desirable than the location of the individual's dwelling with respect to public utilities, facilities, services, and the individual's place of employment.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980;—Am. 1993, Act 308, Eff. Jan. 28, 1994;—Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996;—Am. 2006, Act 371, Eff. Dec. 23, 2006.