

THE UNIFORM CONDEMNATION PROCEDURES ACT (EXCERPT)
Act 87 of 1980

***** 213.58.amended THIS AMENDED SECTION IS EFFECTIVE DECEMBER 23, 2006 *****

213.58.amended Payment by escrowee of money deposited; funds remaining in escrow as security for remediation costs; court order; released funds; circumstances; reversal of agency's election under MCL 213.56a(1); applicability of subsections (2) and (3); "principal residence" defined.

Sec. 8. (1) Except as provided in subsections (2) and (3), if a motion for review under section 6 is not filed or is denied and the right to appeal has terminated or if interim possession is granted under section 9, the court shall order the escrowee to pay the money deposited under section 5 for or on account of the just compensation that may be awarded under section 13. Except as provided in subsections (2) and (3), if a motion for review under section 6 is not filed, the court shall, within 30 days, order the escrowee to pay the money deposited under section 5 for or on account of the just compensation that may be awarded under section 13. Upon the motion of any party, the court shall apportion the estimated compensation among the claimants to the compensation.

(2) Except as provided in subsection (5), if the agency reserves its rights to bring a state or federal cost recovery claim against an owner, under circumstances that the court considers just, the court may allow any portion of the money deposited under section 5 to remain in escrow as security for remediation costs of environmental contamination on the condemned parcel. An agency shall present an affidavit and environmental report establishing that the funds placed on deposit under section 5 are likely to be required to remediate the property. The amount in escrow shall not exceed the likely costs of remediation if the property were used for its highest and best use. This subsection does not limit or expand an owner's or agency's rights to bring federal or state cost recovery claims.

(3) Notwithstanding any order entered by the court requiring money deposited pursuant to section 5 to remain in escrow for the payment of estimated remediation costs of contaminated property, the funds in escrow, plus interest subject to section 15, shall be released among the claimants to the just compensation under circumstances that the court considers just, including any of the following circumstances:

(a) The court finds that the applicable statutory requirements for remediation have changed and the amount remaining in escrow is no longer required in full or in part to remediate the alleged environmental contamination.

(b) The court finds that the anticipated need for the remediation of the alleged environmental contamination is not required or is not required to the extent of the funds remaining on deposit.

(c) If the remediation of the property is not initiated by the agency within 2 years of surrender of possession pursuant to section 9 and the agency is unable to show good cause for delay.

(d) The costs actually expended for remediation are less than the estimated costs of remediation or less than the amount of money remaining in escrow.

(e) A court issues an order of apportionment of remediation responsibility.

(4) If the court orders the agency to reverse its election under section 6a(1), the court shall order the escrowee to pay the amount of the revised good faith written offer for or on account of the just compensation that may be awarded pursuant to section 13, and to pay the balance of the escrow to the agency. If the agency seeks possession before the court decides whether to reverse the agency's election or before submitting a revised good faith offer, the agency may request that the court order a portion of the escrow withheld in anticipation of a reduction in the revised good faith offer, with the balance to be paid by the escrowee for or on account of the just compensation that may be awarded pursuant to section 13. If the court denies the request to reverse the agency's election or when the revised good faith offer is submitted, the court shall order the escrowee to pay any unpaid portion of it for or on account of the owner and to pay any balance to the agency.

(5) Subsections (2) and (3) do not apply to money deposited under section 5 in escrow for the payment of just compensation for an owner's principal residence, if the principal residential structure is actually taken or the amount of the property taken leaves less property contiguous to the principal residential structure than the minimum lot size if the local governing unit has implemented a minimum lot size by zoning ordinance. This subsection does not limit or expand an owner's or agency's rights to bring federal or state cost recovery claims. As used in this subsection, "principal residence" means a principal residence for which an exemption from certain local taxation is granted under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

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 438, Eff. Dec. 23, 2006.