

HOUSE BILL No. 2714

By Committee on Federal and State Affairs

2-25

9 AN ACT relating to the department of transportation; restricting certain
10 appeals from awards under eminent domain procedure; amending
11 K.S.A. 2009 Supp. 26-507 and 26-508 and repealing the existing
12 sections.
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2009 Supp. 26-507 is hereby amended to read as
16 follows: 26-507. (a) *Payment of award; vesting of rights.* If the plaintiff
17 desires to continue with the proceeding as to particular tracts the plaintiff,
18 within 30 days from the time the appraisers' report is filed, shall pay to
19 the clerk of the district court the amount of the appraisers' award as to
20 those particular tracts and court costs accrued to date, including apprais-
21 ers' fees. *Except as provided in subsection (c) of K.S.A. 26-508, and*
22 *amendments thereto*, such payment shall be without prejudice to plain-
23 tiff's right to appeal from the appraisers' award. Except as provided fur-
24 ther, upon such payment being made, the title, easement or interest ap-
25 propriated in the land condemned shall thereupon immediately vest in
26 the plaintiff, and it shall be entitled to the immediate possession of the
27 land to the extent necessary for the purpose for which taken and consis-
28 tent with the title, easement or interest condemned. If such property
29 contains a defendant's personal property, a defendant shall have 10 days
30 from the date such payment is made to the clerk of the district court to
31 remove such personal property from the premises. The plaintiff shall be
32 entitled to all the remedies provided by law for the securing of such
33 possession. The clerk of the district court shall notify the interested par-
34 ties that the appraisers' award has been paid and that the defendant shall
35 have 10 days from the payment date to remove personal property from
36 the premises.

37 (b) *Abandonment.* If the plaintiff does not make the payment pre-
38 scribed in subsection (a) for any of the tracts described in the petition,
39 within 30 days, from the time the appraisers' report is filed, the condem-
40 nation is abandoned as to those tracts, and judgment for costs, including
41 the appraisers' fees together with judgment in favor of the defendant for
42 the reasonable expenses incurred in defense of the action, shall be en-
43 tered against the plaintiff. After such payment is made by the plaintiff to

1 the clerk of the court, as provided in subsection (a), the proceedings as
2 to those tracts for which payment has been made can only be abandoned
3 by the mutual consent of the plaintiff and the parties interested in the
4 award.

5 Sec. 2. K.S.A. 2009 Supp. 26-508 is hereby amended to read as fol-
6 lows: 26-508. (a) *Except as provided in subsection (c)*, if the plaintiff, or
7 any defendant, is dissatisfied with the award of the appraisers, such party,
8 within 30 days after the filing of the appraisers' report, may appeal from
9 the award by filing a written notice of appeal with the clerk of the district
10 court. The appeal shall be deemed perfected upon the filing of the notice
11 of appeal. In the event any parties shall perfect an appeal, copies of such
12 notice of appeal shall be mailed to all parties affected by such appeal,
13 within three days after the date of the perfection thereof. An appeal by
14 the plaintiff or any defendant shall bring the issue of damages to all in-
15 terests in the tract before the court for trial *de novo*. The appeal shall be
16 docketed as a new civil action, the docket fee of a new court action shall
17 be collected and the appeal shall be tried as any other civil action. The
18 only issue to be determined therein shall be the compensation required
19 by K.S.A. 26-513, and amendments thereto.

20 (b) This section, as amended by this act, shall be construed and ap-
21 plied prospectively, as well as retroactively to July 1, 2003, and shall apply
22 to all eminent domain proceedings pending on or commenced after July
23 1, 2003.

24 (c) (1) *The department of transportation through the secretary of*
25 *transportation, as plaintiff, shall not have the right to appeal from the*
26 *appraiser's award.*

27 (2) *This subsection shall be construed and applied prospectively, as*
28 *well as retroactively to January 1, 2009, and shall apply to all eminent*
29 *domain proceedings pending on or commenced after January 1, 2009.*

30 Sec. 3. K.S.A. 2009 Supp. 26-507 and 26-508 are hereby repealed.

31 Sec. 4. This act shall take effect and be in force from and after its
32 publication in the Kansas register.