

SENATE BILL NO. 16—SENATOR CARE

PREFILED JANUARY 16, 2007

Referred to Committee on Judiciary

SUMMARY—Revises the provisions pertaining to eminent domain.
(BDR 3-121)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to eminent domain; revising the provisions pertaining to the deposit of money with a court in an action in eminent domain; revising the provisions pertaining to the date of valuation of property in an action in eminent domain; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that when money is deposited in any court and payment is not required for 90 days or more, the money may be commingled with other deposits and invested, and the interest earned is deposited with the general fund of the political subdivision or municipality which supports the court. (NRS 355.210) **Section 1** of this bill provides that when money is deposited in an action in eminent domain, the money must be deposited in a separate account and the owner of the property is entitled to some or all of the interest earned, depending upon the amount of compensation awarded to the owner as compared to the amount of money deposited.

Existing law provides that the date of valuation of property in an action in eminent domain is the date of the first service of summons. However, if the action is not tried within 2 years after that date and the delay is caused primarily by the plaintiff or congestion in the court calendar, the date of valuation is the date of the commencement of the trial. (NRS 37.120) **Section 1.5** of this bill requires the property owner to select as the date of valuation of the property the date the complaint is filed, the date of the commencement of the trial or the date of the commencement of a retrial.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 37 of NRS is hereby amended by adding thereto a new section to read as follows:

The interest earned from any investment of money that has been deposited in any court pursuant to this chapter must be distributed in the following manner:

1. If the amount of the compensation awarded upon final judgment, not including any interest upon the judgment, is equal to or greater than the amount of money deposited in the court, the defendant is entitled to receive all the interest earned.

2. If the amount of the compensation awarded upon final judgment, not including any interest upon the judgment, is less than the amount of money deposited in the court:

(a) The defendant is entitled to receive a percentage of the interest earned that represents the amount of money deposited in the court as compared to the amount of the compensation awarded upon final judgment, not including any interest upon the judgment.

(b) The plaintiff is entitled to receive any interest remaining following the distribution to the defendant pursuant to paragraph (a).

Sec. 1.5. NRS 37.120 is hereby amended to read as follows:

37.120 ~~[1.]~~ To assess compensation and damages as provided in NRS 37.110, the ~~[date of the first service of the summons is]~~ *value of the property on* the date of valuation ~~[-, except that, if the action is not tried within 2 years after the date of the first service of the summons, and the court makes a written finding that the delay is caused primarily by the plaintiff or is caused by congestion or backlog in the calendar of the court, the date of valuation is the date of the actual commencement of the trial. If a new trial is ordered by a court, the date of valuation used in the new trial must be the date of valuation used in the original trial.]~~

~~—2.— No improvements put upon the property after the date of the service of the summons may be included in the assessment of compensation or damages, regardless of the date of valuation.~~

~~—3.— As used in this section, “primarily” means the greater amount, quantity or quality of acts of the plaintiff or the defendant or, if there is more than one defendant, the total delay caused by all the defendants, that would cause the date of the trial to be continued past 2 years after the date of the first service of the summons.]~~ *must be determined. The owner of the property shall select one of the following dates as the date of valuation:*

1. The date the complaint is filed.

2. The date of the actual commencement of the trial.



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1 **3. If a new trial is ordered by a court, the date of the actual**
2 **commencement of the new trial.**

3 **Sec. 2.** NRS 355.210 is hereby amended to read as follows:

4 355.210 1. ~~{When}~~ **Except as otherwise provided in**
5 **subsection 2, when** any money has been deposited in any court
6 pursuant to law or rule of court, and when in the judgment of the
7 clerk of the court, or the judge thereof if there is no clerk, payment
8 out of the deposit will not be required for 90 days or more, the clerk
9 or the judge, as the case may be, may invest the money so deposited,
10 either alone or by commingling it with other money deposited.

11 2. **If money has been deposited in any court pursuant to**
12 **chapter 37 of NRS, the money must be kept in a separate account**
13 **and invested.**

14 3. The investment may be made:

15 (a) By deposit at interest in a state or national bank or credit
16 union in the State of Nevada; or

17 (b) In bills, bonds, debentures, notes or other securities whose
18 purchase by a board of county commissioners is authorized by
19 NRS 355.170.

20 ~~{3.—The}~~

21 4. **Except as otherwise provided in section 1 of this act, the**
22 interest earned from any investment of money pursuant to this
23 section ~~{shall}~~ **must** be deposited to the credit of the general fund of
24 the political subdivision or municipality which supports the court.

25 ~~{4-}~~ 5. The requirements of this section may be modified by an
26 ordinance adopted pursuant to the provisions of NRS 244.207 ~~{-}~~ ,
27 **except the requirements of subsection 2.**

28 **Sec. 3.** The amendatory provisions of this act apply to an
29 action in eminent domain that is filed on or after October 1, 2007.

