

6B.25 Right to take possession of lands — title — damages award.

1. *a.* Upon the filing of the commissioners' report with the sheriff, the applicant may deposit with the sheriff the amount assessed in favor of a claimant, and the applicant, except as otherwise provided, may take possession of the land condemned and proceed with the improvement. An appeal from the assessment does not affect the right, except as otherwise provided.

b. Prior to expiration of the time provided for appeal, the property owner may apply to the district court for release of that part of the damages deposited which the court finds proper. If there is not an appeal by any party, the property owner shall be entitled to the whole of the damages awarded.

c. Upon appeal from the commissioners' award of damages, the district court may direct that the part of the amount of damages deposited with the sheriff, as it finds just and proper, be paid to the claimant. If upon trial of the appeal a lesser amount is awarded, the difference between the amount so awarded and the amount paid shall be repaid by the person to whom it was paid and upon failure to make the repayment the party shall have judgment entered against the person who received the excess payment.

d. Title to the property or the interests in property passes to the applicant when damages have been finally determined and paid.

2. If an award of damages is appealed to district court, the amount deposited with the sheriff, if any, less the amount paid by the sheriff to the claimant, shall be transferred to the clerk of district court where the appeal was filed and the clerk shall deposit the money in an interest-bearing account. The district court in its judgment rendered pursuant to [section 6B.23](#) shall award the interest earned on the account in proportion to the amount of damages ascertained and entered of record.

[R60, §1317; C73, §1244, 1255, 1256, 1272; C97, §1999, 2010, 2025, 2029; S13, §2024-e, -g, -h; C24, 27, 31, 35, 39, §7844, 7847, 7848; C46, 50, 54, 58, §472.25, 472.28, 472.29; C62, 66, 71, 73, 75, 77, 79, 81, §472.25]

[84 Acts, ch 1065, §4](#)

[C93, §6B.25](#)

[2000 Acts, ch 1179, §18, 30; 2004 Acts, ch 1121, §2; 2019 Acts, ch 24, §104](#)

Referred to in [§6B.23](#), [6B.32](#), [6B.60](#), [306B.4](#), [306C.17](#)