

CHAPTER 154.

[S. S. B. 245.]

EMINENT DOMAIN GRANTED TO CITIES AND TOWNS.

AN ACT relating to eminent domain proceedings in cities and towns and amending sections 7768, 7789, 7790, 7797, 7798, 7799, 7801, 7802, 7814 and 7816 of Remington & Ballinger's Annotated Codes and Statutes of Washington, and adding new sections thereto to be known as sections 7801A, 7814A, 7814B, 7814C, 7814D, 7814E, 7814F, 7814G, 7814H, 7814I and 7814J.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 7768 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Section 7768. Every city and town and each unclassified city and town within the State of Washington, is hereby authorized and empowered to condemn land and property, including state, county and school lands and property for streets, avenues, alleys, highways, bridges, approaches, culverts, drains, ditches, public squares, public markets, city and town halls, jails and other public buildings, and for the opening and widening, widening and extending, altering and straightening of any street, avenue, alley or highway, and to damage any land or other property for any such purpose or for the purpose of making changes in the grade of any street, avenue, alley or highway, or for the construction of slopes or retaining walls for cuts and fills upon real property abutting on any street, avenue, alley or highway now ordered to be, or such as shall hereafter be ordered to be opened, extended, altered, straightened or graded, or for the purpose of draining swamps, marshes, tide lands, tide flats or ponds, or filling the same, within the limits of such city, and to condemn land or property, or to damage the same, either within or without the limits of such city for public parks, drives and boulevards, hospitals, pest houses, drains and sewers, garbage crematories and destructors and dumping grounds for the destruction, deposit or burial of dead ani-

Amends Rem.-Bal. § 7768, by granting power to all cities and towns.

Power of eminent domain granted all cities and towns.

Purposes of exercise.

mals, manure, dung, rubbish, and other offal, and for aqueducts, reservoirs, pumping stations and other structures for conveying into and through such city a supply of fresh water, and for the purpose of protecting such supply of fresh water from pollution, and to condemn land and other property and damage the same for such and for any other public use after just compensation having been first made or paid into court for the owner in the manner prescribed by this act.

SEC. 2. That section 7789 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Section 7789. All commissioners before entering upon their duties shall take and subscribe an oath that they will faithfully perform the duties of the office to which they are appointed, and will to the best of their abilities make true and impartial assessments according to the law. Every commissioner shall receive compensation at the rate of five dollars per day for each day actually spent in making the assessment herein provided for: *Provided*, That in any city of the first class the superior court of the county in which said city is situated may, by order duly entered in its records, fix the compensation of each commissioner in an amount in no case to exceed seven and one-half (\$7.50) dollars per day for each day actually spent in making the assessment herein provided for. Each commissioner shall file in the proceeding in which he has made such assessment his account, stating the number of days he has actually spent in said proceeding, and upon the approval of said account by the judge before whom the proceeding is pending, the comptroller or city clerk of such city shall issue a warrant in the amount approved by the judge upon the special fund created to pay the awards and costs of said proceeding, and the fees of such commissioner so paid shall be included in the cost and expenses of such proceedings. In case such commissioners are, during the same period, or parts thereof, engaged in making assessments in different proceedings, in rendering their accounts they shall

Amends
Rem.-Bal.
§ 7789, by
enlarging pay
in first class
cities.

Commis-
sioners.

Oath.

Compensa-
tion.

Rate of pay
in first
class cities.

Filing
account
of service.

apportion on them to the different proceedings in proportion to the amount of time actually spent by them on the assessment in each proceeding.

SEC. 3. That section 7790 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Section 7790. It shall be the duty of such commissioners to examine the locality where the improvement is proposed to be made and the property which will be especially benefited thereby, and to estimate what proportion, if any, of the total cost of such improvement will be a benefit to the public, and what proportion thereof will be a benefit to the property to be benefited, and apportion the same between the city and such property so that each shall bear its relative equitable proportion, and having found said amounts, to apportion and assess the amount so found to be a benefit to the property upon the several lots, blocks, tracts and parcels of land, or other property in the proportion in which they will be severally benefited by such improvement: *Provided*, That the legislative body of the city may in the ordinance initiating any such improvement establish an assessment district and said district when so established shall be deemed to include all the lands or other property especially benefited by the proposed improvement, and the limits of said district when so fixed shall be binding and conclusive on the said commissioners: *And provided further*, That no property shall be assessed a greater amount than it will be actually benefited. That all leasehold rights and interests of private persons, firms or corporations in or to harbor areas located within the corporate limits of any incorporated city or town are for the purpose of assessment for the payment of the awards, interest and costs of any improvement authorized by this act, declared to be real property, and all such leasehold rights and interests may be assessed and re-assessed in accordance with the special benefits received for the purpose of paying the cost of any such improvement heretofore made or which may hereafter be made in accordance with law.

Amends
Rem.-Bal.
§ 7790, by
authorizing
assessments
of leasehold
interests in
harbor areas.

Special
benefits.

Apportion-
ment.

Assessment
districts.

Leaseholds
of harbor
area
assessable.

SEC. 4. That section 7797 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Amends Rem.-Bal. § 7797, by making assessment judgment superior to all liens except taxes.

Section 7797. The judgment of the court shall have the effect of a separate judgment as to each tract or parcel of land or other property assessed, and any appeal from such judgment shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. Such judgment shall be a lien upon the property assessed from the date thereof until payment shall be made, and said lien shall be paramount and superior to any other lien or incumbrance whatsoever, theretofore or thereafter created, except a lien for assessments for general taxes.

Effect and lien of judgment.

SEC. 5. That section 7798 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Amends Rem.-Bal. § 7798, by requiring acceptance of awards by city prior to certification of rolls.

Section 7798. The clerk of the court in which such judgment is rendered shall certify a copy of the assessment roll and judgment to the treasurer of the city, or if there has been an appeal taken from any part of such judgment, then he shall certify such part of the roll and judgment as is not included in such appeal, and the remainder when final judgment is rendered: *Provided*, That if upon such appeal, the judgment of the superior court shall be affirmed, the assessments on such property as to which appeal has been taken shall bear interest at the same rate and from the same date which other assessments not paid within the time hereafter provided shall bear. Such copy of the assessment roll shall describe the lots, blocks, tracts, parcels of land or other property assessed, and the respective amounts assessed on each, and shall be sufficient warrant to the city treasurer to collect the assessment therein specified. In no case, however, shall a copy of such assessment roll and judgment be certified to the city treasurer unless and until the awards of the jury shall have first been accepted by the city council or other legislative body as provided by law, or the time for rejecting the same shall have expired.

Certifying judgment and assessment roll.

Necessity of acceptance by city council of jury awards.

Amends
Rem.-Bal.
§ 7799.

SEC. 6. That section 7799 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Payment of
assessments.

Section 7799. Whenever the assessment for any such improvement shall be immediately payable, the owner of any such lot, tract or parcel of land or other property so assessed may pay such entire assessment, or any part thereof, without interest, within thirty (30) days after the notice of such assessment.

Notice by city
treasurer.

The city treasurer shall, as soon as the certified copy of the assessment roll has been placed in his hands for collection, publish a notice in the official newspaper of the city for two (2) consecutive daily, or two (2) consecutive weekly issues, and then by posting four notices thereof in public places along the line of the proposed improvement, that the said roll is in his hands for collection, and that any assessment thereon, or any part thereof, may be paid within thirty (30) days from the date of the first publication or posting of said notice, without penalty, interest or costs, and if not so paid, the same shall thereupon become delinquent.

SEC. 7. That section 7801 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Enforcement
of assess-
ments.

Section 7801. Whenever any assessment payable immediately shall become delinquent and whenever any instalment shall become delinquent, the city treasurer shall forthwith proceed to enforce the collection of such delinquent and unpaid assessment or instalment as in this act provided.

Return of
assessment
roll.

Within fifteen days from the expiration of the time limited for the payment of any such assessments or instalments, the treasurer shall return the assessment roll to the comptroller, if there be such officer of the city or town; otherwise, to the city or town clerk, designating thereon the assessments or instalments paid and those unpaid. The comptroller or clerk, as the case may be, shall, upon receipt of said roll, credit the treasurer with the amount of

assessments or instalments collected thereon, and thereupon issue and annex to said roll a warrant directing the treasurer to sell all the property described in said roll upon which assessments are levied, whether in the name of a designated owner or in the name of an unknown owner, to satisfy all delinquent and unpaid assessments or instalments upon said roll, with costs, interest and charges. All assessments or instalments unpaid at the expiration of the time fixed herein for the payment of the same, shall bear interest at the rate of ten per cent. per annum from said date until paid.

Warrant to treasurer to sell.

Interest on delinquencies.

SEC. 8. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7801A and to read as follows:

Section 7801A. The collection and enforcement of such delinquent instalments shall be governed by and conform to the provisions of chapter 153, Session Laws of 1907, of the State of Washington, relating to the collection and enforcement of delinquent assessments, except as otherwise provided in this act.

Law governing enforcement of assessments.

Whenever the word "assessment" or the word "assessments" is used in said chapter 153, the same shall be held and construed to include the word "instalment" or the word "instalments."

SEC. 9. That section 7802 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Section 7802. Such warrant issued for the purpose of making sale of said delinquent property shall be deemed and taken as an execution against said property for the amount of said assessments or instalments with interest and costs, and the treasurer shall, within sixty days from the receipt thereof by him, commence the sale of said property and continue such sale from day to day thereafter, except on Sundays and legal holidays, until all the property described in said assessment roll on which any such assessment or instalment is delinquent and unpaid is sold.

[See Rem.-Bal. §§ 7768-7821, for act referred to.]

Amends Rem.-Bal. § 7802, by including sale for delinquent instalments.

Sale of delinquent property.

Such sale shall take place at the front door of the building in which the city council holds its sessions. The treasurer shall give notice of such sales by publishing a notice thereof once each week for three consecutive weeks in the official newspaper of the city, or if there be no such newspaper, then by publishing the same for said period in some newspaper published in the same county in which the city is situated, or if no such newspaper is published in such county, then in some newspaper published in the state of daily circulation in such county. Such notice shall contain a list of all property upon which such assessments or instalments are delinquent with the amount of the assessment or instalment, interest and costs to date of sale, including the cost of advertising such sale, together with the names of the owners of such property, or the words "unknown owners," as the same may appear upon said assessment roll, and shall specify the time and place of sale, and that the property therein described will be sold to satisfy the assessment or instalment, interest and costs due upon the same. All of such sales shall be made between the hours of ten o'clock a. m. and four o'clock p. m. Each lot or parcel of land or other property shall be sold separately and in the order in which the same appears on the assessment roll, commencing at the head thereof. If there be no bidder for any lot or parcel of land or other property for a sum sufficient to pay the delinquent assessment or instalment thereon, with interest and costs, the treasurer shall strike the same off to the city for the whole amount which he is required to collect by such sale.

SEC. 10. That section 7814 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Section 7814. The city council or other legislative body of any city may, in their discretion, provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement authorized by law, by bonds of the improvement district, which bonds shall be issued and sold as herein provided.

Amends
Rem.-Bal.
§ 7814.

Issuance
of bonds.

SEC. 11. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814A, and to read as follows:

Section 7814A. Such bonds shall be issued only in pursuance of ordinances of the city directing the issuance of the same, and by their terms shall be made payable on or before a date not to exceed twelve years from and after their date, which latter date may be fixed by resolution or ordinance by council or other legislative body of said city and shall bear interest not exceeding eight per centum per annum, which interest shall be payable annually, or semi-annually, as may be provided by resolution or ordinance, and each bond shall have attached thereto interest coupons for each interest payment.

Such bonds shall be in such denominations as shall be provided in the resolution or ordinance authorizing their issue and shall be numbered from one upwards, consecutively, and each bond and coupon shall be signed by the mayor and attested by the clerk or comptroller of such city: *Provided, however,* That said coupons may in lieu of being so signed have printed thereon a fac-simile of the signature of said officers and each bond shall have the seal of such city affixed thereto and shall refer to the improvement to pay for which the same shall be issued and to the ordinance authorizing the same. Each bond shall provide that the principal sum therein named, and the interest thereon, shall be payable out of the local improvement fund created for the payment of the cost and expense of such improvement, and not otherwise. Such bonds shall not be issued in any amount in excess of the cost and expense of the improvement.

SEC. 12. That Remington & Ballinger's Annotated Codes & Statutes of Washington be amended by adding thereto a new section to be know as section 7814B, and to read as follows:

Section 7814B. The bonds issued under the provisions of this act or any portion thereof may be sold by any

Date of maturity.

Interest coupons.

Denominations.

Signatures of officers.

Fund against which issued.

Amount of issue.

Sale.

Application
of proceeds.

authorized officer or officers of the city at not less than their par value and accrued interest, and the proceeds thereof shall be applied in payment of the awards, interest and costs of the improvement.

SEC. 13. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814C, and to read as follows:

Payment of
assessment in
instalments.

Section 7814C. In all cases where any city shall issue bonds as provided for in this act, the whole or any portion of the separate assessments for any such improvement, may be paid during the thirty (30) day period provided for in section 14 of this act, and thereafter the sum remaining unpaid may be paid in equal annual instalments; the number of which instalments shall be less by two than the number of years which the bonds issued to pay for the improvements may run, with interest upon the whole unpaid sum at the bond rate, and each year thereafter one of such instalments, together with the interest due thereon and on all instalments thereafter to become due, shall be collected in the same manner as shall be provided by law and the resolutions and ordinances of such city for the collection of assessments for such improvements in cases where no bonds are issued.

Applicability
of act to pro-
ceedings
already
initiated.

In all cases of improvements authorized in this act, where, at the time this act shall become effective, the notice by the city treasurer of the assessment for such improvement shall not have been published, the city council or other legislative body of such city may by ordinance or resolution provide for the issuance and sale of bonds for such improvement and for the payment of such assessments in instalments.

SEC. 14. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814D, and to read as follows:

Section 7814D. Whenever the assessment for any such improvement shall be payable in instalments, the owner of

any lot, tract or parcel of land or other property charged with any such assessment may pay such assessment or any portion thereof, without interest, within thirty (30) days after such notice of such assessment.

The city treasurer shall, as soon as the certified copy of the assessment roll has been placed in his hands for collection, publish a notice in the official newspaper of the city for two consecutive daily or two consecutive weekly issues, that the said roll is in his hands for collection and that any assessment thereon or any portion of any such assessment may be paid at any time within thirty (30) days from the date of the first publication of said notice without penalty, interest or costs, and the unpaid balance, if any, may be paid in equal annual instalments, or any such assessment may be paid at any time after the first thirty (30) days following the date of the first publication of such notice by paying the entire unpaid portion thereof with all penalties and costs attached, together with all interest thereon to the date of delinquency of the first instalment thereof next falling due.

Notice of
reception
of roll.

Instalment
payments,
how made.

Such notice shall further state that the first instalment of such assessment shall become due and payable during the thirty (30) day period succeeding a date one (1) year after the date of first publication of such notice, and annually thereafter each succeeding instalment shall become due and payable in like manner.

If the whole or any portion of any assessment remains unpaid after the first thirty (30) day period herein provided for, interest upon the whole unpaid sum shall be charged at the bond rate, and each year thereafter one (1) of said instalments, together with interest due upon the whole of the unpaid balance shall be collected.

Any instalment not paid prior to the expiration of the thirty (30) day period during which such instalment is due and payable, shall thereupon become delinquent. All delinquent instalments shall, until paid, be subject to a charge for interest at the bond rate, and to an additional charge of five per cent (5%) penalty levied upon both

Delinquent
instalments.

principal and interest due on such instalment or instalments.

Time of
issuance
of bonds.

The bonds herein provided for shall not be issued prior to twenty (20) days after the expiration of the thirty (30) days first above mentioned, but may be issued at any time thereafter. In all cases where any sum is paid as herein provided, the same shall be paid to the city treasurer, or to the officer whose duty it is to collect said assessments, and all sums so paid shall be applied solely to the payment of the awards, interest and costs of such improvements or the redemption of the bonds issued therefor.

Application
of payments.

Selection of
newspaper
for publica-
tion of
notice.

In case any city has no official newspaper, any publication required under the provisions of this act may be made in any newspaper of general circulation published therein, or in case there be no such newspaper, then in a newspaper published in the county in which such city is located and of general circulation in such city.

SEC. 15. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814E, and to read as follows:

Right of
bondholders
to enforce
collection.

Section 7814E. If the city shall fail, neglect or refuse to pay said bonds or to promptly collect any such assessments when due, the owner of any such bonds may proceed in his own name to collect such assessment and foreclose the lien thereof in any court of competent jurisdiction, and shall in addition to the principal of such bonds and interest thereon, recover five per centum of such sum, together with the costs of such suit. Any number of holders of such bonds for any single improvement may join as plaintiffs and any number of owners of the property on which the same are a lien may be joined as defendants in such suit.

SEC. 16. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814F, and to read as follows:

Section 7814F. Neither the holder nor owner of any bond issued under the authority of this act shall have any claim therefor against the city by which the same is issued, except from the special assessment made for the improvement for which such bond was issued, but his remedy in case of non-payment, shall be confined to the enforcement of such assessments. A copy of this section shall be plainly written, printed or engraved on each bond so issued.

Remedy of bondholder confined to assessments.

SEC. 17. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814G, and to read as follows:

Section 7814G. Whenever any city has heretofore issued bonds for the purpose of paying the awards, interest and costs of local improvements herein authorized, such city may, with the consent of the holders of such bonds, exchange for them bonds authorized by this act.

Exchange of bonds.

SEC. 18. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814H, and to read as follows:

Section 7814H. The city treasurer shall pay the interest on the bonds authorized to be issued by this act out of the respective local improvement funds from which they are payable. Whenever there shall be sufficient money in any local improvement fund against which bonds have been issued under the provisions of this act, over and above sufficient for the payment of interest on all unpaid bonds, to pay the principal of one or more bonds, the treasurer shall call in and pay such bonds. Such bonds shall be called in and paid in their numerical order, commencing with number one. Such call shall be made by publication in the city official newspaper in its first publication following the delinquency of the instalment of the assessment or as soon thereafter as is practicable, and shall state that bonds No. . . . (giving the serial numbers of the bonds called) will be paid on the day the next interest coupons

Payment of bond interest.

Calling in bonds.

Publication of notice.

on said bonds shall become due, and interest on said bonds shall cease upon such date: *Provided*, That in any city or town not having an official newspaper, such publication may be made in any newspaper of general circulation published therein, or in case there be no such newspaper, then in a newspaper published in the county in which such city or town is located and of general circulation in such city or town.

SEC. 19. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814I, and to read as follows:

Partial
invalidity.

Section 7814I. An adjudication of invalidity of any part of this act shall not affect the validity of the act as a whole or any part thereof.

SEC. 20. That Remington & Ballinger's Annotated Codes and Statutes of Washington be amended by adding thereto a new section to be known as section 7814J, and to read as follows:

"City"
defined.

Section 7814J. The term "city," when used in this act, means and includes every city and town and each unclassified city and town in the State of Washington.

SEC. 21. That section 7816 of Remington & Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows:

Amends
Rem.-Bal.
§ 7816, by
enlarging
time within
which to
discontinue.

Discontinu-
ance of
proceedings.

Section 7816. At any time within six months from the date of rendition of the last judgment awarding compensation for any such improvement in the superior court, or if any appeal be taken, then within two months after the final determination of the appeal in the supreme court, any such city may discontinue the proceedings by ordinance passed for that purpose before making payment or proceeding with the improvement by paying or depositing in court all taxable costs incurred by any parties to the proceedings up to the time of such discontinuance. If any such improvement be discontinued, no new proceed-

ings shall be undertaken therefor until the expiration of one year from the date of such discontinuance.

Passed the Senate March 2, 1915.

Passed the House March 9, 1915.

Approved by the Governor March 18, 1915.

CHAPTER 155.

[S. B. 54.]

TAKING MOTOR VEHICLE WITHOUT PERMISSION OF OWNER.

AN ACT providing for the punishment of persons intentionally taking, riding in or upon, or driving away the automobile or motor vehicle of another without the permission of the owner or person entitled to the possession thereof.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Every person who shall without the permission of the owner or person entitled to the possession thereof intentionally take or drive away any automobile or motor vehicle, whether propelled by steam, electricity or internal combustion engine, the property of another, shall be deemed guilty of a gross misdemeanor and every person voluntarily riding in or upon said automobile or motor vehicle with knowledge of the fact that the same was unlawfully taken shall be equally guilty with the person taking or driving said automobile or motor vehicle and shall be deemed guilty of a gross misdemeanor.

Penalty for unlawful taking of another's automobile.

Companion equally guilty.

Passed the Senate February 24, 1915.

Passed the House March 10, 1915.

Approved by the Governor March 18, 1915.