

Title 8

EMINENT DOMAIN

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Tidelands, shorelands, oyster reserves—Department of natural resources: RCW 79.110.350.

8.04.005 Condemnation final actions—Notice requirements. Proceedings under this chapter are subject to the notice requirements of RCW 8.25.290. Compliance with RCW 8.25.290 is required before an action can be filed under this chapter. [2007 c 68 § 2.]

8.04.010 Petition for appropriation—Contents. Whenever any officer, board, commission, or other body representing the state is authorized by the legislature to acquire any land, real estate, premises, or other property, deemed necessary for the public uses of the state, or any department or institution thereof, the attorney general shall present to the superior court of the county in which the land, real estate, premises, or other property so sought to be acquired or appropriated is situated, a petition in which the land, real estate, premises, or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person or party interested therein, or any part thereof, insofar as can be ascertained from the public records, the object for which the property is sought to be appropriated, and praying that a jury be impanelled to ascertain and determine the compensation to be made in money to such owner or owners, respectively, and to all tenants, encumbrancers, and others interested, for taking such land, real estate, premises, or other property, or in case a jury is waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained and determined by the court. [1955 c 156 § 6; 1911 c 64 § 1; 1891 c 74 § 1; RRS § 891.]

8.04.020 Notice—Contents—Service—Publication. A notice stating briefly the objects of the petition and containing a description of the land, real estate, premises or property sought to be acquired and appropriated, and stating the time and place when and where the same will be presented to the court or the judge thereof, shall be served on each and every person named therein as owner, encumbrancer, tenant or otherwise interested therein at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of persons under the age of eighteen years, on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such person; in case of idiots, lunatics or distracted persons, on their guardians, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other property sought to be appropriated is school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be acquired and appropriated is situated. In all cases where the owner or person claiming an interest in such

real estate or other property is a nonresident of this state, or where the residence of such owner or person is unknown, and an affidavit of the attorney general shall be filed that such owner or person is a nonresident of this state, or that after diligent inquiry his residence is unknown or cannot be ascertained, service may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest the county in which lies the land sought to be acquired and appropriated. And such publication shall be deemed service upon each of such nonresident person or persons whose residence is unknown. Such notice shall be signed by the attorney general of the state of Washington. Such notice may be served by any competent person eighteen years of age or over. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, order and other papers in the proceedings, authorized by RCW 8.04.010 through 8.04.160, may be made as the superior court or judge thereof may direct. [1971 ex.s. c 292 § 10; 1891 c 74 § 2; RRS § 892. Formerly RCW 8.04.020, 8.04.030, 8.04.040, 8.04.050.]

Publication of legal notices: Chapter 65.16 RCW.

Publication of notice in eminent domain proceedings: RCW 4.28.120.

Service of process where state land is involved: RCW 8.28.010.

Additional notes found at www.leg.wa.gov

8.04.060 Adjournment of proceedings—Further notice. The court or judge may, upon application of the said attorney general or any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected. [1891 c 74 § 3; RRS § 893.]

8.04.070 Hearing—Order adjudicating public use. At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the lands, real estate, premises or other property described in the petition have been duly served with the notice, and is further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property are sought to be appropriated is really necessary for the public use of the state, it shall make and enter an order, to be recorded in the minutes of the court, and which order shall be final unless appellate review thereof is sought within five days after entry thereof, adjudicating that the contemplated use for which the lands, real estate, premises or other property are sought to be appropriated is really a public use of the state. [1988 c 202 § 6; 1971 c 81 § 33; 1955 c 213 § 2. Prior: 1925 ex.s. c 98 § 1, part; 1891 c 74 § 4, part; RRS § 894, part.]

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2(a)(4), 5.2, 18.22.*

Additional notes found at www.leg.wa.gov

8.04.080 Order to direct determination of damages and offsetting benefits. The order shall direct that determination be had of the compensation and damages to be paid all parties interested in the land, real estate, premises or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by such taking and appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and the use by the state of the lands, real estate, premises, and other property described in the petition. The determination shall be made within thirty days after the entry of such order, before a jury if trial by jury is demanded at the hearing either by the petitioner or by the respondents, otherwise by the court sitting without a jury. If no regular venire has been called so as to be available to serve within such time on application of the petitioner at the hearing, the court may by its order continue such determination to the next regular jury term if a regular venire will be called within sixty days, otherwise the court shall call a special jury within said sixty days and direct that a jury panel be selected and summoned pursuant to chapter 2.36 RCW, from the citizens of the county in which the lands, real estate, premises, or other property sought to be appropriated are situated, as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the petitioner and respondents both consent to a less number of jurors (such number to be not less than three), and such consent is entered by the clerk in the minutes of such hearing. In any county with a population of less than seventy thousand, the costs of such special jury for the trial of such condemnation cases only shall be borne by the state. [1991 c 363 § 8; 1988 c 188 § 15; 1955 c 213 § 3. Prior: 1925 ex.s. c 98 § 1, part; 1891 c 74 § 4, part; RRS § 894, part.]

Rules of court: CR 47, 48.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Juries in courts of limited jurisdiction: RCW 2.36.050.

8.04.090 Order for immediate possession—Payment of tender into court. In case the state shall require immediate possession and use of the property sought to be condemned, and an order of necessity shall have been granted, and no review has been taken therefrom, the attorney general may stipulate with respondents in accordance with the provisions of this section and RCW 8.04.092 and 8.04.094 for an order of immediate possession and use, and file with the clerk of the court wherein the action is pending, a certificate of the state's requirement of immediate possession and use of the land, which shall state the amount of money offered to the respondents and shall further state that such offer constitutes a continuing tender of such amount. The attorney general shall file a copy of the certificate with the office of financial management, which forthwith shall issue and deliver to him or her a warrant payable to the order of the clerk of the court

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wherein the action is pending in a sum sufficient to pay the amount offered, which shall forthwith be paid into the registry of the court. The court without further notice to respondent shall enter an order granting to the state the immediate possession and use of the property described in the order of necessity, which order shall bind the petitioner to pay the full amount of any final judgment of compensation and damages which may thereafter be awarded for the taking and appropriation of the lands, real estate, premises, or other property described in the petition and for the injury, if any, to the remainder of the lands, real estate, premises, or other property from which they are to be taken by reason of such taking and appropriation, after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and use by the state of the lands, real estate, premises, or other property described in the petition. The moneys paid into court may at any time after entry of the order of immediate possession, be withdrawn by respondents, by order of the court, as their interests shall appear. [2011 c 336 § 253; 1979 c 151 § 7; 1973 c 106 § 7; 1955 c 213 § 4. Prior: 1951 c 177 § 1; 1925 ex.s. c 98 § 1, part; RRS § 894, part.]

8.04.092 Determination of adequacy of payment—Jury trial—Costs. The amount paid into court shall constitute just compensation paid for the taking of such property: PROVIDED, That respondents may, in the same action, request a trial for the purpose of assessing the amount of compensation to be made and the amount of damages arising from the taking. At the trial, the date of valuation of the property shall be the date of entry of the order granting to the state immediate possession and use of the property. If, pursuant to such hearing, the verdict of the jury, unless a jury is waived by all parties, or decision of the court, awards respondents an amount in excess of the tender, the court shall order the excess paid to respondents with interest thereon from the time of the entry of the order of immediate possession, and shall charge the costs of the action to the state. If, pursuant to the trial, the verdict of the jury or decision of the court awards respondents an amount equal to the tender, the costs of the action shall be charged to the state, and if the verdict or decision awards an amount less than the amount of the tender, the state shall be taxed for costs and the state, if respondents have accepted the tender and withdrawn the amount paid into court, shall be entitled to a judgment for the difference; otherwise, the excess on deposit shall be returned to the state. [1983 c 140 § 1; 1955 c 155 § 1; 1951 c 177 § 2.]

8.04.094 Demand for trial—Time of trial—Decree of appropriation. If any respondent shall elect to demand a trial for the purpose of assessing just compensation and damages arising from the taking, he or she shall so move within sixty days from the date of entry of the order of immediate possession and use, and the issues shall be brought to trial within one year from the date of such order unless good and sufficient proof shall be offered and it shall appear therefrom to the court that the hearing could not have been held within said year. In the event that no such demand be timely made or having been timely made, shall not be brought to trial within the limiting period, the court, upon application of the state, shall enter a decree of appropriation for the amount paid into

court under the provisions of RCW 8.04.090, as the total sum to which respondents are entitled, and such decree shall be final and nonappealable. [2011 c 336 § 254; 1951 c 177 § 3.]

8.04.097 Acquisition when several ownerships. Whenever it becomes necessary on behalf of the state to acquire by condemnation more than one tract of land, property, or property rights, existing in any one county, and held in different ownerships or interests, the state may consolidate and file a single petition as one action against the several tracts of land, property, or property rights held by said different ownerships or interests, setting forth separately the descriptions of the tracts of land, property, or property rights needed, and the owners, persons, or parties interested therein. [1955 c 156 § 1. Formerly RCW 8.04.190.]

8.04.098 Acquisition when several ownerships—Public use. At the time and place appointed for hearing the petition, the court may enter an order adjudicating public use as affecting all tracts of land, property, or property rights as described therein, which order shall be final as to those respondents not seeking a review to the supreme court or the court of appeals within five days after the entry thereof. [1971 c 81 § 34; 1955 c 156 § 2. Formerly RCW 8.04.200.]

8.04.099 Acquisition when several ownerships—Selection of single jury. Thereafter, if requested by the state, a single jury shall be selected to hear and determine in separate trials, the amount of compensation and damages, if any, that shall be paid for the different tracts, parcels, property, or property rights, as set forth in the petition. [1955 c 156 § 3. Formerly RCW 8.04.210.]

Juries—Civil actions, selection, impaneling, and swearing of: Chapters 2.36, 4.44 RCW.

8.04.100 Cases may be consolidated for trial. At the time of fixing the date for trial by jury in any case the court may, on application of the petitioner, order that any one or more condemnation cases then pending before the court and requiring determination by a jury of the compensation and damages as aforesaid be consolidated and tried before one and the same jury but with a separate award to be made in each case. If necessary, the sheriff, under direction of the court or judge thereof, shall summon as many qualified persons as may be required to complete the jury from citizens of the county where such lands, real estate, premises or other property sought to be appropriated are situated. [1955 c 213 § 5. Prior: 1925 ex.s. c 98 § 1, part; RRS § 894, part.]

8.04.110 Trial—Damages to be found. A judge of the superior court shall preside at the trial to determine the compensation and damage to be awarded, which trial shall be held at the courthouse in the county where the land, real estate, premises or other property sought to be appropriated or acquired is situated: and in the case of each such trial by jury the jurors by their verdict shall fix as a lump sum the total amount of damages which shall result to all persons or parties and to any county and to all tenants, encumbrancers and others interested therein, by reason of the appropriation and use of the lands, real estate, premises or other property sought to be appropriated or acquired. Upon the trial, wit-

nesses may be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpoena in each proceeding shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. In case a jury is not demanded as provided for in *section 894 such total amount of damages shall be ascertained and determined by the court or judge thereof and the proceedings shall be the same as in trials of an issue of fact by the court. [1925 ex.s. c 98 § 2; 1891 c 74 § 5; RRS § 895.]

Rules of court: *CR 26 through 37.*

*Reviser's note: "section 894" refers to RRS § 894 herein codified (as amended) as RCW 8.04.070, 8.04.080, 8.04.090, and 8.04.100.

Witnesses, examination of: Title 5 RCW.

8.04.112 Damages to buildings. If there is a building standing, in whole or in part, upon any land to be taken, the jury shall add to their finding of the value of the land taken, the damages to the building. If the entire building is taken, or if the building is damaged, so that it cannot be readjusted to the premises, then the measure of damages shall be the fair market value of the building. If part of the building is taken or damaged and the building can be readjusted or replaced on the part of the land remaining, and the state agrees thereto, then the measure of damages shall be the cost of readjusting or moving the building, or the part thereof left, together with the depreciation in the market value of the building by reason of such readjustment or moving. [1955 c 156 § 4.]

8.04.114 Damages to buildings—Where based on readjustment or moving. If damages are based upon readjustment or moving of building or buildings, the court shall order and fix the time in the judgment and decree of appropriation within which any such building must be moved or readjusted. Upon failure to comply with said order, the state may move said building upon respondent's remaining land and recover its costs and expenses incidental thereto. The state shall have a lien upon the building and the remaining land from the date of the judgment and decree of appropriation for the necessary costs and expenses of removal until the order of the court has been complied with. The amount of the lien and satisfaction thereof shall be by application and entry of a supplemental judgment in said proceedings and execution thereon. [1955 c 156 § 5.]

8.04.120 Judgment—Decree of appropriation—Recording. At the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate or premises sought to be appropriated, thereby vesting the legal title to the same in the state of Washington. Whenever said judgment or decree of appropriation is made, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate, and with like effect. [1891 c 74 § 6; RRS § 896.]

Recording of deeds of real estate: Title 65 RCW.

8.04.130 Payment of damages—Effect—Costs—Appellate review. Upon the entry of judgment upon the verdict of the jury or the decision of the court awarding damages,

the state may make payment of the damages and the costs of the proceedings by depositing them with the clerk of the court, to be paid out under the direction of the court or judge thereof; and upon making such payment into court of the damages assessed and allowed for any land, real estate, premises, or other property mentioned in the petition, and of the costs, the state shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or party interested recovers a greater amount of damages; and in that case the state shall be liable only for the amount in excess of the sum paid into court and the costs of appeal.

In the event appellate review is sought by any party to the proceedings, the moneys paid into the superior court by the state pursuant to this section shall remain in the custody of the court until the final determination of the proceedings by the supreme court or the court of appeals. [1988 c 202 § 7; 1971 c 81 § 35; 1951 c 177 § 4; 1925 ex.s. c 98 § 3; 1891 c 74 § 7; RRS § 897.]

Additional notes found at www.leg.wa.gov

8.04.140 Claimants, payment of—Conflicting claims.

Any person, corporation, or county claiming to be entitled to any money paid into court, as provided in RCW 8.04.010 through 8.04.160, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or she or it is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he or she or it shall be found entitled to; but if, upon application, the court or judge thereof should decide that the title to the land, real estate, or premises specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he or she shall refuse such order until such action is commenced and the conflicting claims to such land, real estate, or premises be determined according to law. [2011 c 336 § 255; 1891 c 74 § 8; RRS § 898.]

8.04.150 Appellate review. Either party may seek appellate review of the judgment for damages entered in the superior court within thirty days after the entry of judgment as aforesaid, and such review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the review: PROVIDED HOWEVER, That upon such review no bond shall be required: AND PROVIDED FURTHER, That if the owner of land, the real estate or premises accepts the sum awarded by the jury, the court or the judge thereof, he or she shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases: PROVIDED FURTHER, That no review shall operate so as to prevent the said state of Washington from taking possession of such property pending review after the amount of said award shall have been paid into court. [2011 c 336 § 256; 1988 c 202 § 8; 1971 c 81 § 36; 1891 c 74 § 9; RRS § 899.]

Rules of court: *Cf. RAP 5.2, 8.1, 18.22.*

Additional notes found at www.leg.wa.gov

8.04.160 Award, how paid into court. Whenever the attorney general shall file with the director of financial management a certificate setting forth the amount of any award

found against the state of Washington under the provisions of RCW 8.04.010 through 8.04.160, together with the costs of said proceeding, and a description of the lands and premises sought to be appropriated and acquired, and the title of the action or proceeding in which said award is rendered, it shall be the duty of the office of financial management to forthwith issue a warrant upon the state treasury to the order of the attorney general in a sum sufficient to make payment in money of said award and the costs of said proceeding, and thereupon it shall be the duty of said attorney general to forthwith pay to the clerk of said court in money the amount of said award and costs. [1979 c 151 § 8; 1973 c 106 § 8; 1891 c 74 § 10; RRS § 900.]

8.04.170 Condemnation for military purposes.

Whenever the governor, as commander-in-chief of the military of this state, shall deem it necessary to acquire any lands, real estate, premises, or other property for any military purpose or purposes of this state, either to add to, enlarge, increase, or otherwise improve state military facilities now or hereafter existing or to establish new facilities, the acquisition of which shall have been provided for by the state, by a county or by a city, or by either, all or any thereof, upon certificate by the governor of such necessity, proceedings for the condemnation, appropriation, and taking of the lands, real estate, premises, or other property so certified to be necessary shall be taken as follows:

Where the state is to pay the purchase price it shall be the duty of the attorney general, upon receipt by him or her of said certificate of the governor, to file a petition in the superior court for the county in which such lands, real estate, premises, or other property may be situate praying such condemnation, appropriating, and taking, which petition shall be prosecuted to a final determination in the manner by law provided for other condemnation suits brought by or on behalf of the state;

Where a county is to pay the purchase price it shall be the duty of the prosecuting attorney of said county upon receipt by him or her of said certificate of the governor, to file a petition in the superior court for said county praying such condemnation, appropriation, and taking, which petition shall be prosecuted to a final determination in the manner by law provided for other condemnation suits brought by or on behalf of a county;

Where a city is to pay the purchase price it shall be the duty of the corporation counsel, city attorney, or other head of the legal department of said city, upon receipt by him or her of said certificate of the governor, to file a petition in the superior court for the county in which said city is situate, praying such condemnation, appropriation, and taking, which petition shall be prosecuted to a final determination in the manner by law provided for other condemnation suits brought by or on behalf of such city;

Where the purchase price is to be paid by the state, a county, and a city or by the state and a county, or by the state and a city, or by a county and a city, the condemnation shall be prosecuted to a final determination in the manner by law provided for either or any thereof, as the governor may determine, which determination shall be final and conclusive. [2011 c 336 § 257; 1917 c 153 § 1; RRS § 900-1.]

Notice where military land is involved: RCW 8.28.030.

8.04.180 Condemnation for military purposes—Construction. Nothing contained in RCW 8.04.170 shall be construed as in any manner applying to condemnation by any county for the purpose of acquiring title to any site for a mobilization, training and supply station, to be donated by any county to the United States. [1917 c 153 § 2; RRS § 900-2.]

Chapter 8.08 RCW EMINENT DOMAIN BY COUNTIES

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Land registration: RCW 65.12.400, 65.12.610.

Limited access facilities: RCW 47.52.050.

Local improvement districts: RCW 36.69.270, 36.94.240.

Military purposes: RCW 8.04.170, 8.04.180.

Relocation assistance: Chapter 8.26 RCW.

River improvements: RCW 86.12.020.

Roads, bridges

powers of county commissioners: RCW 36.75.040.

rights-of-way: RCW 36.85.010, 36.85.020.

service districts: RCW 36.83.090.

Transportation benefit districts: RCW 36.73.130.

Utility local improvement districts: RCW 36.94.240.

Wharves and landings: RCW 88.24.070.

8.08.005 Condemnation final actions—Notice requirements. Proceedings under this chapter are subject to the notice requirements of RCW 8.25.290. Compliance with RCW 8.25.290 is required before an action can be filed under this chapter. [2007 c 68 § 3.]

8.08.010 Condemnation authorized for general county purposes—Petition. Every county is hereby authorized and empowered to condemn land and property within the county for public use; whenever the board of county commissioners deems it necessary for county purposes to acquire such land, real estate, premises or other property, and is unable to agree with the owner or owners thereof for its purchase, it shall be the duty of the prosecuting attorney to pres-

ent to the superior court of the county in which said land, real estate, premises, or other property so sought to be acquired or appropriated shall be situated, a petition in which the land, real estate, premises, or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money to such owner or owners respectively, and to all tenants, encumbrancers, or others interested, for taking such lands, real estate, premises, or other property, or in case a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained or determined by the court or the judge thereof. [1949 c 79 § 1; Rem. Supp. 1949 § 3991-6.]

8.08.020 Public use declared. Any condemnation, appropriation or disposition intended in RCW 8.08.010 through 8.08.080 shall be deemed and held to be for a county purpose and public use within the meaning of RCW 8.08.010 through 8.08.080 when it is directly or indirectly, approximately or remotely for the general benefit or welfare of the county or of the inhabitants thereof. [1949 c 79 § 2; Rem. Supp. 1949 § 3991-7.]

8.08.030 Notice of presentation of petition. A notice, stating the time and place when and where such petition shall be presented to the court or the judge thereof, together with a copy of such petition, shall be served on each and every person named therein as owner or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such notice shall be signed by the prosecuting attorney of the county wherein the real estate or property sought to be taken is situated, and may be served in the same manner as a summons in a civil action in such superior court is authorized by law to be served. [1949 c 79 § 3; Rem. Supp. 1949 § 3991-8.]

Publication of notice in eminent domain proceedings: RCW 4.28.120.

8.08.040 Hearing—Order adjudicating public use. At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property described in said petition have been duly served with said notice as prescribed herein, and shall be further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property sought to be appropriated is a public use of the county, the court or judge thereof may make and enter an order adjudicating that the contemplated use is really a public use of the county, and which order shall be final unless review thereof to the supreme court or the court of appeals be taken within five days after entry of such order, adjudicating that the contemplated use for which the lands, real estate, premises or other property sought to be appropriated is really a public use of the county, and directing that determination be had of the compensation and damages to be paid all parties interested in the

land, real estate, premises, or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by such taking or appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated, after offsetting against any and all such compensation and damages, special benefits, if any, accruing to such remainder by reason of such appropriation and use by the county of such lands, real estate, premises, and other property described in the petition; such determination to be made by a jury, unless waived, in which event the compensation or damages shall be determined by the court without a jury. Proceedings under this chapter shall have precedence over all cases in court except criminal cases. [2000 c 68 § 1; 1971 c 81 § 37; 1949 c 79 § 4; Rem. Supp. 1949 § 3991-9.]

8.08.050 Trial—Damages to be found. The jury selected to hear the evidence and determine the compensation to be paid to the owner or owners of such real estate or property to be appropriated for public use, shall be selected, impaneled and sworn in the same manner that juries in other civil actions are selected, impaneled and sworn, and in case a jury is waived, such compensation or damages shall be ascertained and determined by the court or judge thereof and the proceedings shall be the same as in trial of an issue of fact by the court. Upon the close of the evidence, the court shall instruct the jury as to the matters submitted to them and the law pertaining thereto. Whereupon the jury shall retire and deliberate and determine upon the amount of the compensation of damages and money that shall be paid to the owner or owners of the real estate or property sought to be appropriated, which shall be the amount found by the jury to be the fair and full value of such premises, and when the jury shall have determined upon their verdict, they shall return the same to the court as in other civil actions. [1949 c 79 § 5; Rem. Supp. 1949 § 3991-10.]

Rules of court: CR 47, 48.

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Verdicts, civil actions: Chapter 4.44 RCW.

8.08.060 Judgment—Decree of appropriation. Upon the verdict of the jury or upon the determination of the court of the compensation or damages to be paid for the real estate or property appropriated, judgment shall be entered against such county in favor of the owner or owners of the real estate or property so appropriated for the amount found as just compensation therefor, and upon the payment of such amount by such county to the clerk of such court for the use of the owner or owners or the persons interested in the premises sought to be taken, the court shall enter a decree of appropriation of the real estate or property sought to be taken, thereby vesting the title to the same in such county; and a certified copy of such decree of appropriation may be filed in the office of the county auditor of the county wherein the real estate taken is situated and shall be recorded by such auditor like a deed of real estate and with like effect. The money so paid to the clerk of the court shall be by him or her paid to the person or persons entitled thereto upon the order of the court. [2011 c 336 § 258; 1949 c 79 § 6; Rem. Supp. 1949 § 3991-11.]

(2020 Ed.)

8.08.070 Costs. All the costs of such proceedings in the superior court shall be paid by the county initiating such proceedings. [1949 c 79 § 7; Rem. Supp. 1949 § 3991-12.]

8.08.080 Appellate review. Either party may seek appellate review of the judgment for compensation of the damages awarded in the superior court within thirty days after the entry of judgment as aforesaid, and such review shall bring before the supreme court or the court of appeals the propriety and justice of the amount of damage in respect to the parties to the review: PROVIDED, That upon such review no bonds shall be required: AND PROVIDED FURTHER, That if the owner of land, real estate, or premises accepts the sum awarded by the jury or the court, he or she shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases. [2011 c 336 § 259; 1988 c 202 § 9; 1971 c 81 § 38; 1949 c 79 § 8; Rem. Supp. 1949 § 3991-13.]

Additional notes found at www.leg.wa.gov

8.08.090 Appropriation authorized in aid of federal or state improvement. Every county in this state is hereby, for the purposes of RCW 8.08.090 through 8.08.130, declared to be a body corporate and is authorized and empowered by and through its board of county commissioners whenever said board shall judge it to be clearly for the general welfare and benefit of the people of the county, and so far as shall be in harmony with the Constitution of this state and the provisions of RCW 8.08.090 through 8.08.130, to condemn and appropriate as hereinafter in RCW 8.08.090 through 8.08.130 provided and to dispose of for public use such lands, properties, rights and interests as are hereinafter in RCW 8.08.090 through 8.08.130 mentioned, whenever the government of the United States or of this state is intending or proposing the construction, operation or maintenance of any public work situated or to be situated wholly or partly within such county, or the expenditure of money or labor for the construction, operation or maintenance of any such work, and such condemnation or appropriation will enable the county to aid, promote, facilitate or prepare for any such construction, operation, maintenance or expenditure by either or both such governments, or to fulfill or dispose of any condition upon which such construction, operation, maintenance or expenditure is by law or from any cause contingent, and no property shall be exempt from such condemnation, appropriation or disposition by reason of the same having been or being dedicated, appropriated or otherwise reduced or held to public use. [1895 c 2 § 1; RRS § 901.]

8.08.100 Mode of appropriation. The right of eminent domain for the purposes intended in RCW 8.08.090 through 8.08.130 is hereby extended to all counties in this state and every such county for any purpose of condemnation, appropriation or disposition such as is mentioned in RCW 8.08.090 is hereby authorized and empowered to condemn and appropriate all necessary lands and all rights, properties and interests in or appurtenant to land under the same procedure as is or shall be provided by the laws of this state for the case of any similar condemnation or appropriation by other corporations. [1895 c 2 § 3; RRS § 903.]

8.08.110 Tax levy to pay costs. The board of county commissioners is hereby authorized and empowered in aid of the powers granted or prescribed in RCW 8.08.090 to levy, annually, a tax as large as may be necessary, but not exceeding the rate of one mill on the dollar, upon all the taxable property in the county, such tax to be assessed, levied and collected at the same time and in the same manner as taxes for general county purposes, but the proceeds of said taxes, when collected, shall constitute and be a special fund, applicable solely to the cost of such condemnation, appropriation or disposition, as is mentioned in RCW 8.08.090, and the expenses incident thereto. [1895 c 2 § 2; RRS § 902.]

8.08.120 Indebtedness is for general county purposes. Any county purpose mentioned in RCW 8.08.090 through 8.08.130 shall be deemed and held to be a general county purpose and any indebtedness contracted or to be contracted therefor shall be deemed and held to be an indebtedness for general county purposes, and all the provisions of law of this state relative to indebtedness for general county purposes or the contracting of such indebtedness or the bonds for funding the same shall be deemed applicable to any indebtedness contracted or to be contracted or any bonds issued by any county under RCW 8.08.090 through 8.08.130, but the accounts of the county with respect to the receipts and disbursements of all moneys received or disbursed by the county under the provisions of RCW 8.08.090 through 8.08.130 shall, for each condemnation, appropriation and disposition, be so kept as to clearly and fully exhibit such accounts separate and apart from the other accounts of the county. [1895 c 2 § 4; RRS § 904.]

Public contracts and indebtedness: Title 39 RCW.

8.08.130 Limitation. Any condemnation, appropriation or disposition intended in RCW 8.08.090 through 8.08.130 shall be deemed and held to be for a county purpose and public use within the meaning of RCW 8.08.090 through 8.08.130 when it is directly or indirectly, approximately or remotely for the general benefit or welfare of the county or of the inhabitants thereof, or when it is otherwise within the meaning of the phrase "for a county purpose" as occurring in the Constitution of this state. [1895 c 2 § 5; RRS § 905.]

Chapter 8.12 RCW EMINENT DOMAIN BY CITIES

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CONDEMNATION

8.12.005 Condemnation final actions—Notice requirements. Proceedings under this chapter are subject to the notice requirements of RCW 8.25.290. Compliance with RCW 8.25.290 is required before an action can be filed under this chapter. [2007 c 68 § 4.]

8.12.010 "City" defined. The term "city," when used in this chapter, means and includes every city and town and each unclassified city and town in the state of Washington. [1915 c 154 § 20; RRS § 9272.]

Additional notes found at www.leg.wa.gov

8.12.020 Other terms defined. Whenever the word "person" is used in this chapter, the same shall be construed to include any company, corporation or association, the state or any county therein, and the words "city" or "town" wherever used, shall be construed to be either. Whenever the words "installment" or "installments" are used in this chapter, they shall be construed to include installment or installments of interest, as provided in RCW 8.12.420. Whenever the words "public markets" are used in this chapter and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing. [1990 c 189 § 2; 1925 ex.s. c 115 § 4; 1907 c 153 § 52; RRS § 9277. Prior: 1905 c 55 § 51; 1893 c 84 § 51.]

8.12.030 Condemnation authorized—Purposes enumerated. 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, tidelands, 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, pesthouses, drains and sewers, garbage crematories and destructors and dumping grounds for the destruction, deposit or burial of dead animals, 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 chapter. [1915 c 154 § 1; 1907 c 153 § 1; RRS § 9215. Prior: 1905 c 55 § 1; 1893 c 84 § 1.]

8.12.040 Ordinance to specify method of payment—Limitations. When the corporate authorities of any such city shall desire to condemn land or other property, or damage the same, for any purpose authorized by this chapter, such city shall provide therefor by ordinance, and unless such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessment upon property benefited, compensation therefor shall be made from any general funds of such city applicable thereto. If such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessment upon property benefited, the proceedings for the making of such special assessment shall be as hereinafter prescribed, in this chapter: PROVIDED, That no special assessment shall be levied under authority of this chapter except when made for the purpose of streets, avenues, alleys, or highways or alterations thereof or changes of the grade therein or other improvements in or adjoining the same, or for bridges, approaches, culverts, sewers, drains, ditches, public squares, public playgrounds, public parks, drives or boulevards or for the purpose of draining swamps, marshes, tide flats, tidelands or ponds or for filling the same: AND IT IS FURTHER PROVIDED, That when a street, avenue, highway or boulevard is established or widened to a width greater than one hundred and fifty feet the excess over and above the one hundred and fifty feet shall be paid out of the general fund of such city without any deduction for benefits of such excess. [1925 ex.s. c 128 § 2; 1907 c 153 § 2; RRS § 9216. Prior: 1905 c 55 § 2; 1893 c 84 § 2.]

8.12.050 Petition for condemnation. Whenever any such ordinance shall be passed by the legislative authority of any such city for the making of any improvement authorized by this chapter or any other improvement that such city is authorized to make, the making of which will require that property be taken or damaged for public use, such city shall file a petition in the superior court of the county in which such land is situated, in the name of the city, praying that just compensation, to be made for the property to be taken or damaged for the improvement or purpose specified in such ordinance, be ascertained by a jury or by the court in case a jury be waived. [1913 c 11 § 1; 1907 c 153 § 3; RRS § 9217. Prior: 1905 c 55 § 3; 1893 c 84 § 3.]

8.12.060 Contents of petition. Such petition shall contain a copy of said ordinance, certified by the clerk under the corporate seal, a reasonably accurate description of the lots, parcels of land and property which will be taken or damaged, and the names of the owners and occupants thereof and of persons having any interest therein, so far as known, to the officer filing the petition or appearing from the records in the office of the county auditor. [1907 c 153 § 4; RRS § 9218. Prior: 1905 c 55 § 4; 1893 c 84 § 4.]

8.12.070 Summons—Service. Upon the filing of the petition aforesaid a summons, returnable as summons in other civil actions, shall be issued and served upon the persons made parties defendant, together with a copy of the petition, as in other civil actions. And in case any of them are unknown or reside out of the state, a summons for publication shall issue and publication be made and return and proof thereof be made in the same manner as is or shall be provided by the laws of the state for service upon absent defendants in other civil actions. Notice so given by publication shall be sufficient to authorize the court to hear and determine the suit as though all parties had been sued by their proper names and had been personally served. [1907 c 153 § 5; RRS § 9219. Prior: 1905 c 55 § 5; 1893 c 84 § 5.]

Commencement of actions: Chapter 4.28 RCW.

Publication of

legal notices: Chapter 65.16 RCW.

notice in eminent domain proceedings: RCW 4.28.120.

8.12.080 Service when state or county lands are involved. In case the land, real estate, premises or other property sought to be appropriated or damaged is state, school or county land, the summons and copy of petition shall be served on the auditor of the county in which such land, real estate, premises or other property is situated. Service upon other parties defendant shall be made in the same manner as is or shall be provided by law for service of summons in other civil actions. [1907 c 153 § 6; RRS § 9220. Prior: 1905 c 55 § 6; 1893 c 84 § 6.]

Service of process where state land is involved: RCW 8.28.010.

8.12.090 Waiver of jury—Adjudication of public use—Procedure. In any proceedings under this chapter wherein a trial by jury is provided for, the jury may be waived as in other civil cases in courts of record in the manner prescribed by law, and the matter may be heard and determined without the intervention of a jury. Whenever an attempt is

made to take private property, for a use alleged to be public under authority of this chapter, the question whether the contemplated use be really public shall be a judicial question and shall be determined as such by the court before inquiry is had into the question of compensation to be made. When a jury is required for the determination of any matter under this chapter, such jury may be the same jury summoned for the trial of ordinary civil actions before the court, or the court may, in its discretion, issue a venire to the sheriff to summon as jurors such number of qualified persons as the court shall deem sufficient. Except as herein otherwise provided, the practice and procedure under this chapter in the superior court and in relation to the taking of appeals and prosecution thereof, shall be the same as in other civil actions, but all appeals must be taken within thirty days from the date of rendition of the judgment appealed from. Proceedings under this chapter shall have precedence of all cases in court except criminal cases. [1907 c 153 § 51; RRS § 9276. Prior: 1905 c 55 § 50; 1893 c 84 § 50. Formerly RCW 8.12.090, 8.12.110 and 8.12.200, part.]

Juries, civil actions: Chapters 2.36, 4.44 RCW.

8.12.100 Trial—Jury—Right to separate juries.

Upon the return of said summons, or as soon thereafter as the business of court will permit, the said court shall proceed to the hearing of such petition and shall impanel a jury to ascertain the just compensation to be paid for the property taken or damaged, but if any defendant or party in interest shall demand, and the court shall deem it proper, separate juries may be impaneled as to the compensation or damages to be paid to any one or more of such defendants or parties in interest. [1907 c 153 § 7; RRS § 9221. Prior: 1905 c 55 § 7; 1893 c 84 § 7.]

8.12.120 Interested party may be brought in. Such jury shall also ascertain the just compensation to be paid to any person claiming an interest in any lot, parcel of land, or property which may be taken or damaged by such improvement, whether or not such person's name or such lot, parcel of land, or other property is mentioned or described in such petition: PROVIDED, Such person shall first be admitted as a party defendant to said suit by such court and shall file a statement of his or her interest in and description of the lot, parcel of land, or other property in respect to which he or she claims compensation. [2011 c 336 § 260; 1907 c 153 § 8; RRS § 9222. Prior: 1905 c 55 § 8; 1893 c 84 § 8.]

Rules of court: CR 17 through 25.

8.12.130 Jury may view premises. The court may upon the motion of such city or of any defendant direct that said jury (under the charge of any officer of the court and accompanied by such person or persons as may be appointed by the court to point out the property sought to be taken or damaged) shall view the lands and property affected by said improvement. [1907 c 153 § 9; RRS § 9223. Prior: 1905 c 55 § 9; 1893 c 84 § 9.]

View of premises by jury: RCW 4.44.270.

8.12.140 Damages to building—Measure. If there be any building standing, in whole or in part, upon any land to be taken, the jury shall add to their finding of the value of the

land taken the damages to said building. If the entire building is taken, or if the building is damaged, so that it cannot be readjusted to the premises, then the measure of damages shall be the fair market value of the building. If part of the building is taken or damaged and the building can be readjusted or replaced on the part of the land remaining, then the measure of damages shall be the cost of readjusting or moving the building, or the part thereof left, together with the depreciation in the market value of said building by reason of said readjustment or moving. [1907 c 153 § 10; RRS § 9224. Prior: 1905 c 55 § 10; 1893 c 84 § 10.]

8.12.150 Separate findings where there are several interests—Interpleader of adverse claimants. If the land and buildings belong to different parties, or if the title to the property be divided into different interests by lease or otherwise, the damages done to each of such interests may be separately found by the jury on the request of any party. In making such findings, the jury shall first find and set forth in their verdict the total amount of the damage to said land and buildings and all premises therein, estimating the same as an entire estate and as if the same were the sole property of one owner in fee simple; and they shall then apportion the damages so found among the several parties entitled to the same, in proportion to their several interests and claims and the damages sustained by them respectively, and set forth such apportionment in their verdict. No delay in ascertaining the amount of compensation shall be occasioned by any doubt or contest which may arise as to the ownership of the property, or any part thereof, or as to the extent of the interest of any defendant in the property to be taken or damaged, but in such case, the jury shall ascertain the entire compensation or damage that should be paid for the property and the entire interests of all the parties therein, and the court may thereafter require adverse claimants to interplead, so as to fully determine their rights and interests in the compensation so ascertained. And the court may make such order as may be necessary in regard to the deposit or payment of such compensation. [1907 c 153 § 11; RRS § 9225.]

Rules of court: CR 54.

8.12.160 Verdict—New trial—Continuance—New summons. Upon the return of the verdict the proceedings of the court regarding new trial and the entry of judgment thereon shall be the same as in other civil actions, and the judgment shall be such as the nature of the case shall require. The court shall continue or adjourn the case from time to time as to all occupants and owners named in such petition who shall not have been served with process or brought in by publication, and new summons may issue or new publication may be made at any time; and upon such occupants or owners being brought in, the court may impanel a jury to ascertain the compensation so to be made to such defendant or defendants for private property taken or damaged, and like proceedings shall be had for such purpose as herein provided. [1907 c 153 § 12; RRS § 9226. Prior: 1905 c 55 § 11; 1893 c 84 § 11.]

Rules of court: CR 17 through 25, 54, 59.

Entry of judgment, civil actions: Chapter 4.64 RCW.

New trials, civil actions: Chapter 4.76 RCW.

(2020 Ed.)

8.12.170 Change of ownership—Powers of court.

The court shall have power at any time, upon proof that any such owner or owners named in such petition who has not been served with process has ceased to be such owner or owners since the filing of such petition, to impanel a jury and ascertain the just compensation to be made for the property (or the damage thereto) which has been owned by the person or persons so ceasing to own the same, and the court may upon any finding or findings of any jury or juries, or at any time during the course of such proceedings enter such order, rule, judgment or decree as the nature of the case may require. [1907 c 153 § 13; RRS § 9227. Prior: 1905 c 55 § 12; 1893 c 84 § 12.]

8.12.190 Findings by jury. When the ordinance providing for any such improvement provides that compensation therefor shall be paid in whole or in part by special assessment upon property benefited, the jury or court, as the case may be, shall find separately:

(1) The value of land taken at date of trial;

(2) The damages which will accrue to the part remaining because of its severance from the part taken, over and above any local or special benefits arising from the proposed improvement. No lot, block, tract or parcel of land found by the court or jury to be so damaged shall be assessed for any benefits arising from such taking only;

(3) The gross damages to any land or property not taken (other than damages to a remainder, by reason of its severance from the part taken), and in computing such gross damages shall not deduct any benefits from the proposed improvement. Such finding by the court or jury shall leave any lot, block, parcel or tract of land, or other property subject to assessment for its proportion of any and all local and special benefits accruing thereto by reason of said improvement.

When such ordinance does not provide for any assessment in whole or in part on property specially benefited, the compensation found for land or property taken or damaged shall be ascertained over and above any local or special benefits from the proposed improvement.

Such city or town may offset against any award of the jury or court for the taking or damaging of any lot, block, tract or parcel of land or other property, any general taxes or local assessments unpaid at the time such award is made. Such offset shall be made by deducting the amount of such unpaid taxes and assessments at the time of payment of the judgment or issuance of a warrant in payment of such judgment. [1909 c 210 § 1; 1907 c 153 § 15; RRS § 9229. Prior: 1905 c 55 § 15; 1893 c 84 § 15.]

8.12.200 Judgment—Appellate review—Payment of award into court.

Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases, provided that in case any defendant recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive as to the damages

caused by such improvement unless appellate review is sought, and review of the same shall not delay proceedings under said ordinance, if such city shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs, and such city, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties seeking review of said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of review by the supreme court or the court of appeals of the state by any party to the proceedings the money so paid into the superior court by such city, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property accepts the sum awarded by the jury or the court, he or she shall be deemed thereby to have waived conclusively appellate review and final judgment may be rendered in the superior court as in other cases. [2011 c 336 § 261; 1993 c 14 § 1; 1988 c 202 § 10; 1971 c 81 § 39; 1907 c 153 § 16; 1905 c 55 § 16; 1893 c 84 § 16; RRS § 9230. FORMER PART OF SECTION: 1907 c 153 § 51, part; RRS § 9276, part, now codified in RCW 8.12.090. Prior: 1905 c 55 § 50; 1893 c 84 § 50, part.]

Additional notes found at www.leg.wa.gov

8.12.210 Title vests upon payment. The court, upon proof that just compensation so found by the jury, or by the court in case the jury is waived, together with costs, has been paid to the person entitled thereto, or has been paid into court as directed by the court, shall enter an order that the city or town shall have the right at any time thereafter to take possession of or damage the property in respect to which such compensation shall have been so paid or paid into court as aforesaid, and thereupon, the title to any property so taken shall be vested in fee simple in such city or town. [1907 c 153 § 17; RRS § 9231. Prior: 1905 c 55 § 17; 1893 c 84 § 17.]

Rules of court: CR 58.

PAYMENT FOR IMPROVEMENT

8.12.220 Payment from general fund. When the ordinance under which said improvement is ordered to be made shall not provide that such improvement shall be made wholly by special assessment upon property benefited, the whole amount of such damage and costs, or such part thereof as shall not be assessed upon property benefited shall be paid from the general fund of such city or town, and if sufficient funds therefor are not already provided, such city or town shall levy and collect a sufficient sum therefor as part of the general taxes of such city or town, or may contract indebtedness by the issuance of bonds or warrants therefor as in other cases of internal improvements. [1907 c 153 § 18; RRS § 9232. Prior: 1905 c 55 § 18; 1893 c 84 § 18.]

8.12.230 Payment by special assessment. When such ordinance under which said improvement shall be ordered, shall provide that such improvement shall be paid for, in whole or in part, by special assessment of property benefited

thereby, the damages and costs awarded, or such part thereof as is to be paid by special assessment, shall be levied, assessed and collected in the manner hereinafter provided. [1907 c 153 § 19; RRS § 9233. Prior: 1905 c 55 § 19; 1893 c 84 § 19.]

8.12.240 Petition for assessment—Appointment of commissioners. Such city may file in the same proceeding a supplementary petition, praying the court that an assessment be made for the purpose of raising an amount necessary to pay the compensation and damages which may [be] or shall have been awarded for the property taken or damaged, with costs of the proceedings, or for such part thereof as the ordinance shall provide. The said court shall thereupon appoint three competent persons as commissioners to make such assessment, or if there be a board of eminent domain commissioners of such city, appointed under the provisions of this chapter, said proceeding for assessment shall be referred to said board. Said commissioners shall include in such assessment the compensation and damages which may [be] or shall have been awarded for the property taken or damaged, with all costs and expenses of the proceedings incurred to the time of their appointment, or to the time when said proceeding was referred to them, together with the probable further costs and expenses of the proceedings, including therein the estimated costs of making and collecting such assessment. [1907 c 153 § 20; RRS § 9234. Prior: 1905 c 55 § 20; 1893 c 84 § 20.]

8.12.250 Advancement from general funds against assessments. If any city or town shall desire to take possession of any property or do any damage or proceed with any improvement, the compensation for which is to be paid for in whole or in part by the proceeds of special assessment under this chapter, it may advance from its general funds, or any moneys available for the purpose, the amount of the assessments aforesaid, and pay the same to the owner or into court, as herein provided, reimbursing itself for moneys so advanced from the special assessments aforesaid. If there be no funds available for the purpose, such city may contract indebtedness for the purpose of raising funds therefor, which indebtedness shall be contracted and such proceedings taken therefor as is provided by law for indebtedness contracted for other internal improvements. [1907 c 153 § 50; RRS § 9275. Prior: 1905 c 55 § 49; 1893 c 84 § 49.]

Contracting indebtedness by city: Titles 35, 39 RCW.

ASSESSMENTS—IMMEDIATE PAYMENT

8.12.260 Appointment of board of eminent domain commissioners—Terms of office. At any time after June 11, 1907, any such city may petition the superior court of the county in which said city is situated, that a board of eminent domain commissioners be appointed to make assessments in all condemnation proceedings instituted by such city. Said superior court shall thereupon, by order duly entered in its records, appoint three competent persons as commissioners who shall be known as and who shall constitute the "board of eminent domain commissioners of the city of . . .," and who shall thereafter make assessments in all condemnation proceedings instituted by such city. The order of the court shall

provide that one of the members of such board shall serve for one year, one for two years, and one for three years, from the date of their appointment and until their successors are appointed and qualified. Annually thereafter, said superior court shall appoint one such person as such commissioner, whose term shall begin on the same day of the month on which the first order of appointment was made and continue for three years thereafter and until his or her successor is appointed and qualified. If any commissioner shall be disqualified in any proceeding by reason of interest, or for any other reason, said superior court shall appoint some other competent person to act in his or her place in such proceeding. [2011 c 336 § 262; 1907 c 153 § 21; RRS § 9235. Prior: 1905 c 55 § 21; 1893 c 84 § 21.]

8.12.270 Oath of commissioners—Compensation.

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 law. Every commissioner shall receive compensation at the rate of ten 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 record, fix the compensation of each commissioner in an amount in no case to exceed twenty-five 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 or she has made such assessment his or her account, stating the number of days he or she 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 expense 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 apportion them to the different proceedings in proportion to the amount of time, actually spent by them on the assessment in each proceeding. [2011 c 336 § 263; 1947 c 139 § 1; 1929 c 87 § 1; 1915 c 154 § 2; 1907 c 153 § 22; Rem. Supp. 1947 § 9236. Prior: 1905 c 55 § 22, part; 1893 c 84 § 22, part.]

8.12.280 Duties of commissioners—Assessment of benefits—Apportionment. 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 chapter, declared to be real property, and all such leasehold rights and interests may be assessed and reassessed 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. [1915 c 154 § 3; 1909 c 211 § 1; 1907 c 153 § 23; RRS § 9237. Prior: 1905 c 55 § 22, part; 1893 c 84 § 22, part.]

8.12.290 Assessment roll. Such commissioners in each proceeding shall also make or cause to be made an assessment roll in which shall appear the names of the owners, so far as known, the description of each lot, block, tract or parcel of land or other property and the amounts assessed as special benefits thereto, and in which they shall set down as against the city the amount they shall have found as public benefit, if any, and certify such assessment roll to the court before which said proceeding is pending, within sixty days after their appointment or after the date of the order referring said proceeding to them, or within such extension of said period as shall be allowed by the court. [1907 c 153 § 24; RRS § 9238. Prior: 1905 c 55 § 23; 1893 c 84 § 23.]

8.12.300 Hearing on assessment roll—Notice. After the return of such assessment roll, the court shall make an order setting a time for the hearing thereof before the court, which day shall be at least twenty days after return of the roll. It shall be the duty of the commissioners to give notice of the assessment and of the day fixed by the court for the hearing thereof in the following manner:

(1) They shall at least twenty days prior to the date fixed for the hearing on the roll, mail to each owner of the property assessed, whose name and address is known to them, a notice substantially in the following form:

"Title of Cause. To . . . : Pursuant to an order of the superior court of the State of Washington, in and for the county of, there will be a hearing in the above entitled cause on at upon the assessment roll prepared by the commissioners heretofore appointed by said court to assess the property specially benefited by the (here describe nature of improvement); and you are hereby required if you desire to make any objections to the assessment roll, to file your objections to the same before the date herein fixed for the hearing upon the roll, a description of your property and the amount assessed against it for the aforesaid improvement is as follows: (Description of property and amount assessed against it.)

.....
.....
.....
Commissioners."

(2) They shall cause at least twenty days' notice to be given by posting notice of the hearing on the assessment roll in at least three public places in the city, one of which shall be in the neighborhood of the proposed improvement, and by publishing the same at least for two successive weeks in the official newspaper of the city. The notice so required to be posted and published, may be substantially as follows:

"Title of Cause. Special assessment notice. Notice is hereby given to all persons interested, that an assessment roll has been filed in the above entitled cause providing for the assessment upon the property benefited of the cost of (here insert brief description of improvement) and that the roll has been set down for hearing on the . . . day of . . . at The boundaries of the assessment district are substantially as follows: (here insert an approximate description of the assessment district). All persons desiring to object to the assessment roll are required to file their objections before the date fixed for the hearing upon the roll, and appear on the day fixed for hearing before said court.

.....
.....
.....
Commissioners."

[1985 c 469 § 3; 1907 c 153 § 25; RRS § 9239. Prior: 1905 c 55 § 24; 1893 c 84 § 24.]

8.12.310 Proof of service. On or before the final hearing, the affidavit of one or more of the commissioners shall be filed in said court, stating that they have sent, or caused to be sent, by mail, to the owners whose property has been assessed and whose names and addresses are known to them, the notice hereinbefore required to be sent by mail to the owners of the property assessed. They shall also cause to be filed the affidavit of the person who shall have posted the notice required by this chapter to be posted, setting forth when and in what manner the same was posted. Such affidavits shall be received as prima facie evidence of a compliance with this chapter in regard to giving such notices. They shall also file an affidavit of publication of such notice in like manner as is required in other cases of affidavits of publication of notice of [or] summons. [1907 c 153 § 26; RRS § 9240. Prior: 1905 c 55 § 25; 1893 c 84 § 25.]

8.12.320 Continuance of hearing. If twenty days shall not have elapsed between the first publication or the posting of such notices and the day set for hearing, the hearing shall be continued until such time as the court shall order. The court shall retain full jurisdiction of the matter, until final judgment on the assessments; and if the notice given shall prove invalid or insufficient the court shall order new notice to be given. [1907 c 153 § 27; RRS § 9241. Prior: 1905 c 55 § 26; 1893 c 84 § 26.]

8.12.330 Objections to assessment roll. Any person interested in any property assessed may without payment of any fee to the clerk of court file objections to such report at any time before the day set for hearing said roll. As to all property to the assessment of which objections are not filed as herein provided, default may be entered and the assessment confirmed by the court. On the hearing, the report of such commissioners shall be competent evidence and either party may introduce such other evidence as may tend to establish the right of the matter. The hearing shall be conducted as in other cases at law, tried by the court without a jury, and if it shall appear that the property of the objector is assessed more or less than it will be benefited or more or less than its proportionate share of the costs of the improvement, the court shall so find and also find the amount in which said property ought to be assessed, and the judgment shall be entered accordingly. [1947 c 139 § 2; 1907 c 153 § 28; Rem. Supp. 1947 § 9242. Prior: 1905 c 55 §§ 27, 28; 1893 c 84 §§ 27, 28.]

8.12.340 Modification of assessment. The court before which any such proceedings may be pending shall have authority at any time before final judgment to modify, alter, change, annul or confirm any assessment returned as aforesaid, or cause any such assessment to be recast by the same commissioners, whenever it shall be necessary for the obtainment of justice, or may appoint other commissioners in the place of all or any of the commissioners first appointed for the purpose of making such assessment or modifying, altering, changing or recasting the same, and may take all such proceedings and make all such orders as may be necessary to make a true and just assessment of the cost of such improvement according to the principles of this chapter, and may from time to time, as may be necessary, continue the application for that purpose as to the whole or any part of the premises. [1907 c 153 § 29; RRS § 9243. Prior: 1905 c 55 § 29; 1893 c 84 § 29.]

8.12.350 Judgment, effect—Lien. 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 encumbrance whatsoever, theretofore or thereafter created, except a lien for assessments for general taxes. [1915 c 154 § 4; 1907 c 153 § 30; RRS § 9244. Prior: 1905 c 55 § 30; 1893 c 84 § 30.]

8.12.360 Certification of roll to treasurer. 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 or she 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. [2011 c 336 § 264; 1915 c 154 § 5; 1907 c 153 § 31; RRS § 9245. Prior: 1905 c 55 § 31; 1893 c 84 § 31.]

8.12.370 Treasurer's notice to pay when assessments immediately payable. 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 days after the notice of such assessment.

The city treasurer shall, as soon as the certified copy of the assessment roll has been placed in his or her hands for collection, publish a notice in the official newspaper of the city for two consecutive daily, or two 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 or her hands for collection, and that any assessment thereon, or any part thereof, may be paid within thirty 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. [2011 c 336 § 265; 1915 c 154 § 6; 1907 c 153 § 32; RRS § 9246. Prior: 1905 c 55 § 32; 1893 c 84 § 32.]

8.12.380 Notice by mail—Penalty for default. It shall be the duty of the city treasurer into whose hands such judgment and assessment roll shall come, to mail notices of such assessment to the persons whose names appear on the assessment roll, so far as the addresses of such persons are known to him or her. Any such treasurer omitting so to do, shall be liable to a penalty of five dollars for every such omission; but the validity of the special assessment shall not be affected by such omission. When any assessment or assessments are paid, it shall be the duty of the treasurer to write the word "paid" opposite the same together with the name and post office address of the person making the payment and the date of payment. The owner may annually notify the treasurer of his or her address and it shall be the duty of the treasurer to mail the notice above provided for to such address. [2011 c 336 § 266; 1907 c 153 § 33; RRS § 9247. Prior: 1905 c 55 § 33; 1893 c 84 § 33.]

BONDS—INSTALLMENT PAYMENT

8.12.390 Bonds authorized. 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. [1915 c 154 § 10; 1907 c 153 § 47; RRS § 9262.]

Cities and towns: Title 35 RCW.

Public contracts and indebtedness: Title 39 RCW.

8.12.400 Maturity—Interest—Payment. (1) 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 at such rate or rates as may be authorized by the council or other legislative body of said city, which interest shall be payable annually, or semiannually, as may be provided by resolution or ordinance: PROVIDED, That the legislative body of any city of the first class having a population of three hundred thousand inhabitants, or more, issuing any bonds hereunder may by ordinance, passed by unanimous vote, authorize the issuance of such bonds payable on or before a date not to exceed twenty-two years from and after the date of the issue of such bonds, and shall in such ordinance provide that said bonds shall be sold at not less than par and shall bear interest at such rate or rates as may be authorized by the legislative body.

Such bonds shall be in such denominations as shall be provided in the resolution or ordinance authorizing their issuance and shall be numbered from one upwards, consecutively, and each bond and any coupon shall be signed by the mayor and attested by the clerk or comptroller of such city: PROVIDED, HOWEVER, That any coupons may in lieu of being so signed have printed thereon a facsimile 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. The bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1983 c 167 § 12; 1970 ex.s. c 56 § 2; 1969 ex.s. c 232 § 64; 1925 ex.s. c 115 § 1; 1915 c 154 § 11; RRS § 9263.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Additional notes found at www.leg.wa.gov

8.12.410 Sale—Application of proceeds. (1) The bonds issued under the provisions of this chapter or any portion thereof may be sold by any 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.

(2) Notwithstanding subsection (1) of this section, such bonds may be sold in accordance with chapter 39.46 RCW. [1983 c 167 § 13; 1915 c 154 § 12; RRS § 9264.]

Additional notes found at www.leg.wa.gov

8.12.420 Installment payment of assessments. In all cases where any city shall issue bonds as provided for in this chapter, the whole or any portion of the separate assessments for any such improvement may be paid during the thirty day period provided for in RCW 8.12.430, and thereafter the sum remaining unpaid may be paid in equal annual installments; the number of which installments 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 installments, together with the interest due thereon and on all installments 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: PROVIDED, HOWEVER, That whenever the legislative body of any city of the first class having a population of three hundred thousand inhabitants, or more, shall have, as provided in RCW 8.12.400, by unanimous vote determined that any bonds issued hereunder shall be payable in twenty-two years, such legislative body may by ordinance provide that the principal sum remaining unpaid after the thirty day period specified in RCW 8.12.430 may be paid in ten equal annual installments, beginning with the eleventh year and ending with the twentieth year after said thirty day period, together with interest upon the unpaid installments at the bond rate, and that in each year after the said thirty day period, to and including the tenth year thereafter, one installment of interest on the principal sum of said assessment shall be paid and collected, and that, beginning with the eleventh year after said thirty day period, one installment of the principal, together with the interest due thereon and on all installments thereafter to become due, shall be paid and 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.

In all cases of improvements authorized in this chapter, where, at the time this chapter 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 installments. [1925 ex.s. c 115 § 2; 1915 c 154 § 13; RRS § 9265.]

8.12.430 Notice to pay—Due date of installments—Penalty—Interest. Whenever the assessment for any such improvement shall be payable in installments, the owner of any lot, tract, or parcel of land or other property charged with any such assessment may pay the assessment or any portion thereof, without interest, within thirty days after such notice of the assessment.

The city treasurer shall, as soon as the certified copy of the assessment roll has been placed in his or her hands for collection, publish a notice in the official newspaper of the city for two consecutive daily or two consecutive weekly issues, that the roll is in his or her hands for collection and that any assessment thereon or any portion of any such assessment may be paid at any time within thirty days from

the date of the first publication of the notice without penalty, interest, or costs, and the unpaid balance, if any, may be paid in equal annual installments, or any such assessment may be paid at any time after the first thirty days following the date of the first publication of the 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 installment thereof next falling due.

The notice shall further state that the first installment of the assessment shall become due and payable during the thirty day period succeeding a date one year after the date of first publication of the notice, and annually thereafter each succeeding installment shall become due and payable in like manner.

If the whole or any portion of any assessment remains unpaid after the first thirty day period herein provided for, interest upon the whole unpaid sum shall be charged at the bond rate, and each year thereafter one of the installments, together with interest due upon the whole of the unpaid balance, shall be collected, except that where the assessment is payable in twenty years, installments of interest only shall be collected for the first ten years, as provided in RCW 8.12.420.

Any installment not paid prior to the expiration of the thirty day period during which the installment is due and payable, shall thereupon become delinquent. All delinquent installments shall be subject to a charge of five percent penalty levied upon both principal and interest due on the installments, and all delinquent installments, except installments of interest when the assessment is payable in twenty years, as provided in RCW 8.12.420, shall, until paid, be subject to a charge for interest at the bond rate.

The bonds herein provided for shall not be issued prior to twenty days after the expiration of the thirty 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 the assessments, and all sums so paid shall be applied solely to the payment of the awards, interest and costs of the improvements or the redemption of the bonds issued therefor. [2011 c 336 § 267; 1985 c 469 § 4; 1925 ex.s. c 115 § 3; 1915 c 154 § 14; RRS § 9266.]

8.12.440 Bond owner may enforce collection. 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 or her 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 percent of such sum, together with the costs of such suit. Any number of owners 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. [2011 c 336 § 268; 1983 c 167 § 14; 1915 c 154 § 15; RRS § 9267.]

Rules of court: CR 17 through 25.

Additional notes found at www.leg.wa.gov

8.12.450 Bondholder's remedy limited to assessments. Neither the holder nor owner of any bond issued

under the authority of this chapter 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 or her 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. [2011 c 336 § 269; 1915 c 154 § 16; RRS § 9268.]

8.12.460 Payment of bonds—Call—Notice. The city treasurer shall pay the interest on the bonds authorized to be issued by this chapter 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 chapter, 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. The bonds shall be called in and paid in their numerical order, commencing with number one. The call shall be made by publication in the city official newspaper in its first publication following the delinquency of the installment 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 payments on the bonds shall become due, and interest on the bonds shall cease upon such date. [1985 c 469 § 5; 1983 c 167 § 15; 1915 c 154 § 18; RRS § 9270.]

Additional notes found at www.leg.wa.gov

DELINQUENCY—REDEMPTION

8.12.470 Enforcement of collection—Interest on delinquency. Wherever any assessment or installment thereof shall become delinquent, the city treasurer shall enforce the collection thereof in the same manner as provided in chapter 9, Laws of 1933 [as codified in chapter 35.50 RCW], or such other laws as may be hereafter enacted for the foreclosure of delinquent local (physical) improvement assessments. All assessments or installments unpaid at the expiration of the time fixed herein for the payment of the same, shall bear interest at the rate of ten percent per annum, from said date until paid. [1947 c 152 § 1; 1915 c 154 § 7; 1907 c 153 § 34; Rem. Supp. 1947 § 9248. Prior: 1905 c 55 § 34; 1893 c 84 § 34.]

8.12.480 Assessment fund to be kept separate. All moneys collected by the treasurer upon assessments under this chapter shall be kept as a separate fund and shall be used for no other purpose than the redemption of warrants or bonds drawn or issued against the fund. [1907 c 153 § 42; RRS § 9257. Prior: 1905 c 55 § 42; 1893 c 84 § 42.]

8.12.490 Record of payment and redemption. Whenever before the sale of any property the amount of any assessment thereon, with interest and costs accrued thereon, shall be paid to the treasurer, he or she shall thereupon mark the same paid, with the date of payment thereof on the assessment roll, and whenever after sale of any property for any assessments, the same shall be redeemed, he or she shall thereupon enter the same redeemed with the date of such

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redemption on such record. Such entry shall be made on the margin of the record opposite the description of such property. [2011 c 336 § 270; 1907 c 153 § 43; RRS § 9258. Prior: 1905 c 55 § 43; 1893 c 84 § 43.]

8.12.500 Liability of treasurer. If the treasurer shall receive any moneys for assessments, giving a receipt therefor, for any property and afterwards return the same as unpaid, or shall receive the same after making such return, and the same be sold for assessment which has been so paid and receipted for by himself or herself or his or her clerk or assistant, he or she and his or her bond shall be liable to the holder of the certificate given to the purchaser at the sale for the amount of the face of the certificate, and a penalty of fifteen percent additional thereto besides legal interest, to be demanded within two years from the date of the sale and recovered in any court having jurisdiction of the amount, and the city shall in no case be liable to the holder of such certificate. [2011 c 336 § 271; 1907 c 153 § 44; RRS § 9259. Prior: 1905 c 55 § 44; 1893 c 84 § 44.]

MISCELLANEOUS PROVISIONS

8.12.510 Reassessment. If any assessment be annulled or set aside by any court, or be invalid for any cause, a new assessment may be made, and return and like notice given and proceedings had as herein required in relation to the first; and all parties in interest shall have the like rights, and the city council or other legislative body, and the superior court, shall perform the like duties and have like power in relation to any subsequent assessment as are hereby given in relation to the first assessment. [1907 c 153 § 45; RRS § 9260. Prior: 1905 c 55 § 45; 1893 c 84 § 45.]

8.12.520 Lien of assessment—Enforcement by civil action. All the assessments levied by any city under this chapter shall, from the date of the judgment confirming the assessment be a lien upon the real estate upon which the same may be imposed, and such lien shall continue until such assessments are paid; if any proceedings taken for the enforcement thereof, shall be held void or invalid, such city shall provide by ordinance for new proceedings and a new sale for the enforcement thereof in like manner as hereinbefore provided; and in addition to the remedy hereinbefore provided, any city may enforce such lien by civil action in any court of competent jurisdiction in like manner and with like effect as actions for the foreclosure of mortgage. [1907 c 153 § 46; RRS § 9261. Prior: 1905 c 55 § 46; 1893 c 84 § 46.]

Foreclosure actions, real estate mortgages: Chapter 61.12 RCW.

8.12.530 Discontinuance of proceedings. 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 appellate review is sought, then within two months after the final determination of the proceeding in the supreme court or the court of appeals, 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. Except as provided in RCW 8.25.290(3), if any such improvement be discontinued, no new proceedings shall be undertaken therefor until the expiration of one year from the date of such discontinuance. [2007 c 68 § 7; 1988 c 202 § 11; 1971 c 81 § 40; 1915 c 154 § 21; 1907 c 153 § 49; RRS § 9274. Prior: 1905 c 55 § 48; 1893 c 84 § 48.]

Additional notes found at www.leg.wa.gov

8.12.540 Subsequent compensation for property taken or damaged. If any city has heretofore taken or shall hereafter take possession of any land or other property, or has damaged or shall hereafter damage the same for any of the public purposes mentioned in this chapter, or for any other purpose within the authority of such city or town, without having made just compensation therefor, such city or town may cause such compensation to be ascertained and paid to the persons entitled thereto by proceedings taken in accordance with the provisions of this chapter, and the payment of such compensation and costs as shall be adjudged in favor of the persons entitled thereto in such proceedings shall be a defense to any other action for the taking or damaging of such property. [1907 c 153 § 53; RRS § 9278. Prior: 1905 c 55 § 52; 1893 c 84 § 52.]

8.12.550 Regrade assessments. If any street, avenue or alley, or the right to use and control the same for purposes of public travel, shall belong to any city and such city shall establish a grade therefor, which grade requires any cut or fill, damaging abutting property, the damages to arise from the making of such grade may be ascertained in the manner provided in this chapter, but such city may provide that the compensation to be made for such damage, together with the accruing costs, shall be added to the cost of the labor and material necessary for the grading thereof, and shall be paid by assessment upon the property within the local assessment district defined by law or the charter or ordinances of such city in the same manner and to the same extent as other expenses of such improvement are assessed and collected. In such cases it shall not be necessary to procure the appointment of commissioners to take the other proceedings herein provided for making such assessments, but all the proceedings for the assessment and collection of such damages and costs, shall, if so ordained by such city, be governed by the charter provisions, law or ordinances in force in such city for the assessment and collection of the costs of such improvements upon property locally benefited thereby: PROVIDED, HOWEVER, That this section shall not apply to the original grading of such street, avenue or alley. [1909 c 80 § 1; 1907 c 153 § 48; RRS § 9273. Prior: 1905 c 55 § 47; 1893 c 84 § 47.]

8.12.560 Construction as to second-class cities. In so far as this chapter relates to cities of the second-class, this chapter shall not be deemed to be exclusive or as repealing or superseding any existing law relative to such cities, covering any subject covered by this chapter, but as to such cities, this chapter shall be construed as conferring additional powers and additional remedies, to those now provided by law. [1907 c 153 § 56; RRS § 9279.]

Second-class cities, specific powers enumerated: RCW 35.23.440(45).

Chapter 8.16 RCW EMINENT DOMAIN BY SCHOOL DISTRICTS

Sections

8.16.005	Condemnation final actions—Notice requirements.
8.16.010	Condemnation authorized for schoolhouse sites.
8.16.020	Petition—Contents.
8.16.030	Notice of petition—Service.
8.16.040	Adjournment of proceedings—Further notice.
8.16.050	Hearing—Finding of necessity—Setting for trial.
8.16.060	Impaneling of jury.
8.16.070	Trial—View by jury.
8.16.080	Verdict.
8.16.090	Ten jurors may render verdict.
8.16.100	Waiver of jury.
8.16.110	Judgment—Payment of award—Decree of appropriation.
8.16.120	Costs.
8.16.130	Appellate review.
8.16.140	Appeal does not delay possession if award paid.
8.16.150	Designation of parties—Fees.

Acree limitation with respect to district's power of eminent domain: RCW 28A.335.220.

Additional provisions relating to eminent domain proceedings: Chapter 8.25 RCW.

Appointment of guardian ad litem for minors, incapacitated persons: RCW 8.25.270.

8.16.005 Condemnation final actions—Notice requirements. Proceedings under this chapter are subject to the notice requirements of RCW 8.25.290. Compliance with RCW 8.25.290 is required before an action can be filed under this chapter. [2007 c 68 § 5.]

8.16.010 Condemnation authorized for schoolhouse sites. Whenever any school district shall select any real estate as a site for a schoolhouse, or as additional grounds to an existing schoolhouse site, within the district, and the board of school directors of such district and the owner or owners of the site or any part thereof, or addition thereto selected, shall be unable to agree upon the compensation to be paid by such school district to the owner or owners thereof, such school district shall have the right to take and acquire title to such real estate for use as a schoolhouse site or additional site, upon first paying to the owner or owners thereof therefor the value thereof, to be ascertained in the manner hereinafter provided. [1909 p 372 § 1; 1903 c 111 § 1; RRS § 906.]

8.16.020 Petition—Contents. The board of directors of the school district shall present to the superior court of the state of Washington in and for the county wherein is situated the real estate desired to be acquired for schoolhouse site purposes, a petition, reciting that the board of directors of such school district have selected certain real estate, describing it, as a schoolhouse site, or as additional grounds to an existing site, for such school district; that the site so selected, or some part thereof, describing it, belongs to a person or persons, naming him, her, or them, that such school district has offered to give the owner or owners thereof therefor dollars, and that the owner of such real estate has refused to accept the same therefor; that the board of school directors of such school district and the said owner or owners of such real estate are unable to agree upon the compensation to be paid by such school district to the owner or owners of such real estate therefor, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money by such school district to such owner or owners for the taking of

such real estate for the use as a schoolhouse site for such school district; or in case a jury be waived in the manner provided by law in other civil actions in courts of record, then that the compensation to be made as aforesaid, be ascertained and determined by the court, or judge thereof. [2011 c 336 § 272; 1909 p 372 § 2; 1903 c 111 § 2; RRS § 907.]

8.16.030 Notice of petition—Service. A notice, stating the time and place when and where such petition shall be presented to the court, or the judge thereof, together with a copy of such petition, shall be served on each and every person named therein as owner, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such notice shall be signed by the prosecuting attorney of the county wherein the real estate sought to be taken is situated, and may be served in the same manner as summons in a civil action in such superior court is authorized by law to be served. [1909 p 373 § 3; 1903 c 111 § 3; RRS § 908.]

Publication of notice in eminent domain proceedings: RCW 4.28.120.

8.16.040 Adjournment of proceedings—Further notice. The court may, upon application of the petitioner or of any owner of said real estate, or any person interested therein, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interests may be affected by such proceedings. [1909 p 373 § 4; 1903 c 111 § 4; RRS § 909.]

8.16.050 Hearing—Finding of necessity—Setting for trial. At the time and place appointed for the hearing of such petition, or to which the same may have been adjourned, if the court shall find that all parties interested in such real estate sought to be taken have been duly served with notice and a copy of the petition as above prescribed, and shall further find that such real estate sought to be taken is required and necessary for the purposes of a schoolhouse site, or as an addition to a schoolhouse site, for such school district, the court shall make an order reciting such findings, and shall thereupon set the hearing of such petition down for trial by a jury, as other civil actions are tried, unless a jury is waived in the manner provided by law in other civil actions. [1909 p 373 § 5; RRS § 910. Prior: 1903 c 111 § 5.]

8.16.060 Impaneling of jury. The jury impaneled to hear the evidence and determine the compensation to be paid to the owner or owners of such real estate desired for such schoolhouse site purpose shall consist of twelve persons unless a less number be agreed upon, and shall be selected, impaneled, and sworn in the same manner that juries in other civil actions are selected, impaneled, and sworn, provided a juror may be challenged for cause on the ground that he or she is a taxpayer of the district seeking the condemnation of any real estate. [2011 c 336 § 273; 1909 p 373 § 6; 1903 c 111 § 6; RRS § 911.]

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Juries in courts of limited jurisdiction: RCW 2.36.050.

8.16.070 Trial—View by jury. A judge of the superior court shall preside at the trial and witnesses may be examined

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in behalf of either party to the proceedings, as in other civil actions, and upon the request of all the parties interested in such proceedings the court shall cause the jury impaneled to hear the same, to view the premises sought to be taken, and upon the request of any less number of the persons interested in the proceedings, the court may cause the jury to view the premises, pending the hearing of the case. [1909 p 374 § 7; 1903 c 111 § 7; RRS § 912.]

Trial, civil actions, view by jury: RCW 4.44.270.

8.16.080 Verdict. Upon the close of the evidence, and the argument of counsel, the court shall instruct the jury as to the matters submitted to them, and the law pertaining thereto, whereupon the jury shall retire and deliberate and determine upon the amount of compensation in money that shall be paid to the owner or owners of the real estate sought to be taken for such schoolhouse site purposes therefor, which shall be the amount found by the jury to be the fair and full value of such premises; and when the jury shall have determined upon their verdict, they shall return the same to the court as in other civil actions. [1909 p 374 § 8; 1903 c 111 § 8; RRS § 913.]

Trial, civil actions, rendering of verdict: Chapter 4.44 RCW.

8.16.090 Ten jurors may render verdict. When ten of the jurors agree upon a verdict, the verdict so agreed upon shall be signed by the jury foreperson, and the verdict so agreed upon shall be and stand as the verdict of the jury. [2013 c 23 § 3; 1909 p 374 § 9; 1903 c 111 § 9; RRS § 914.]

Verdict, civil actions, ten jurors may render: RCW 4.44.380.

8.16.100 Waiver of jury. In case a jury is waived, the compensation that shall be paid for the premises taken shall be determined by the court and the proceedings shall be the same as in the trial of issues of fact by the court in other civil actions. [1909 p 374 § 10; 1903 c 111 § 10; RRS § 915.]

8.16.110 Judgment—Payment of award—Decree of appropriation. Upon the verdict of the jury, or upon the determination by the court of the compensation to be paid for the property sought to be taken as herein provided, judgment shall be entered against such school district in favor of the owner or owners of the real estate sought to be taken, for the amount found as compensation therefor, and upon the payment of such amount by such school district to the clerk of such court for the use of the owner or owners of, and the persons interested in the premises sought to be taken, the court shall enter a decree of appropriation of the real estate sought to be taken, thereby vesting the title to the same in such school district; and a certified copy of such decree of appropriation may be filed in the office of the county auditor of the county wherein the real estate taken is situated, and shall be recorded by such auditor like a deed of real estate, and with like effect. The money so paid to the clerk of the court shall be by him or her paid to the person or persons entitled thereto, upon the order of the court. [2011 c 336 § 274; 1909 p 374 § 11; 1903 c 111 § 11; RRS § 916.]

Recording of deeds of real estate: Title 65 RCW.

8.16.120 Costs. All the costs of such proceedings in the superior court shall be paid by the school district initiating

such proceedings. [1909 p 375 § 12; 1903 c 111 § 12; RRS § 917.]

8.16.130 Appellate review. Either party may seek appellate review of the judgment for compensation awarded for the property taken, entered in the superior court, to the supreme court or the court of appeals of the state within sixty days after the entry of the judgment, and such review shall bring before the supreme court or the court of appeals the justness of the compensation awarded for the property taken, and any error occurring on the hearing of such matter, prejudicial to the party appealing: PROVIDED, HOWEVER, That if the owner or owners of the land taken accepts the sum awarded by the jury or court, he, she, or they shall be deemed thereby to have waived appellate review. [2011 c 336 § 275; 1988 c 202 § 12; 1971 c 81 § 41; 1909 p 375 § 13; RRS § 918. Prior: 1903 c 111 § 13.]

Additional notes found at www.leg.wa.gov

8.16.140 Appeal does not delay possession if award paid. An appeal from such judgment by the owner or owners of the land sought to be taken, shall not have the effect to preclude the school district from taking possession of the premises sought, pending the appeal, provided the amount of the judgment against the school district shall have been paid in to the clerk of the court, as hereinbefore provided. [1909 p 375 § 14; 1903 c 111 § 14; RRS § 919.]

8.16.150 Designation of parties—Fees. In all proceedings under this chapter the school district seeking to acquire title to real estate for a schoolhouse site, shall be denominated plaintiff, and all other persons interested therein shall be denominated defendants; and in all such proceedings the clerk of the superior court wherein any such proceeding is brought shall charge nothing for his or her services, except in taking an appeal from the judgment entered in the superior court. [2011 c 336 § 276; 1909 p 375 § 15; 1903 c 111 § 15; RRS § 920.]

Chapter 8.20 RCW EMINENT DOMAIN BY CORPORATIONS

Sections

8.20.005	Condemnation final actions—Notice requirements.
8.20.010	Petition for appropriation—Contents.
8.20.020	Notice—Contents—Service—Publication.
8.20.060	Adjournment of proceedings—Further notice.
8.20.070	Adjudication of public use or private way of necessity.
8.20.080	Trial, how conducted.
8.20.090	Judgment—Decree of appropriation—Recording.
8.20.100	Payment of damages—Effect—Appellate review.
8.20.110	Claimants, payment of—Conflicting claims.
8.20.120	Appellate review.
8.20.130	Prosecution of work pending appeal—Bond.
8.20.140	Appropriation of railway right-of-way through canyon, pass, or defile.
8.20.150	Prior entry with consent—Condemnation avoids ouster.
8.20.160	Three-year occupancy—Condemnation avoids ouster.
8.20.170	Suit for compensation by owner equivalent to condemnation.

Additional provisions relating to eminent domain proceedings: Chapter 8.25 RCW.

Appointment of guardian ad litem for minors, incapacitated persons: RCW 8.25.270.

Corporations, certain types: RCW 81.36.010.

Corporations conveying water: RCW 90.16.100.

[Title 8 RCW—page 20]

Easements over public lands: Chapter 79.36 RCW.

Electric light and power companies: RCW 80.32.060 through 80.32.080.

Eminent domain affecting corporations other than municipal: State Constitution Art. 12 § 10.

Gas and oil pipelines: RCW 81.88.020.

Grade crossing eliminations, appropriation for: RCW 81.53.180.

Mining companies: RCW 78.04.010.

Railroad companies, appropriation by: RCW 81.36.010.

Railroads, rights-of-way: RCW 81.53.180.

State university—Rights-of-way to railroads: RCW 28B.20.330.

Street and electric railroads: RCW 81.64.040.

Telecommunications companies: RCW 80.36.010, State Constitution Art. 12 § 19.

Underground natural gas storage: RCW 80.40.030, 80.40.040.

Water power companies: RCW 90.16.030.

8.20.005 Condemnation final actions—Notice requirements. Proceedings under this chapter are subject to the notice requirements of RCW 8.25.290. Compliance with RCW 8.25.290 is required before an action can be filed under this chapter. [2007 c 68 § 6.]

8.20.010 Petition for appropriation—Contents. Any corporation authorized by law to appropriate land, real estate, premises, or other property for right-of-way or any other corporate purposes, may present to the superior court of the county in which any land, real estate, premises, or other property sought to be appropriated shall be situated, or to the judge of such superior court in any county where he or she has jurisdiction or is holding court, a petition in which the land, real estate, premises, or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money, irrespective of any benefit from any improvement proposed by such corporation, to such owner or owners, respectively, and to all tenants, encumbrancers, and others interested, for the taking or injuriously affecting such lands, real estate, premises, or other property, or in case a jury be waived as in other civil cases in courts of record in the manner prescribed by law, then that the compensation to be made, as aforesaid, be ascertained and determined by the court, or judge thereof. [2011 c 336 § 277; 1890 p 294 § 1. Prior: 1888 p 58 § 1; RRS § 921.]

8.20.020 Notice—Contents—Service—Publication. A notice, stating briefly the objects of the petition, and containing a description of the land, real estate, premises or property sought to be appropriated, and stating the time and place, when and where the same will be presented to the court, or the judge thereof, shall be served on each and every person named therein as owner, encumbrancer, tenant, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person

or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of persons under the age of eighteen years, on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such person; in case of idiots, lunatics or distracted persons, on their guardian, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other property sought to be appropriated is state, school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be appropriated is situated. In all cases where the owner or person claiming an interest in such real or other property, is a nonresident of this state, or where the residence of such owner or person is unknown, and an affidavit of the agent or attorney of the corporation shall be filed that such owner or person is a nonresident of this state, or that after diligent inquiry his residence is unknown, or cannot be ascertained by such deponent, service may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest to the county in which lies the land sought to be appropriated. And such publication shall be deemed service upon each of such nonresident person or persons whose residence is unknown. Such notice shall be signed by the president, manager, secretary or attorney of the corporation; and in case the proceedings provided for in RCW 8.20.010 through 8.20.140 are instituted by the owner or any other person or party interested in the land, real estate, or other property sought to be appropriated, then such notice shall be signed by such owner, person or party interested, or his, her or its attorney. Such notice may be served by any competent person eighteen years of age or over. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, orders and other papers in the proceedings authorized by RCW 8.20.010 through 8.20.140 may be made as the superior court or the judge thereof may direct. [1971 ex.s. c 292 § 9; 1890 p 295 § 2; RRS § 922. Prior: 1888 p 58 § 2. Formerly RCW 8.20.020, 8.20.030, 8.20.040, 8.20.050.]

Publication of

legal notices: Chapter 65.16 RCW.

notice in eminent domain proceedings: RCW 4.28.120.

Service of process where state land is involved: RCW 8.28.010.

Additional notes found at www.leg.wa.gov

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8.20.060 Adjournment of proceedings—Further notice. The court or judge may, upon application of the petitioner or of any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected. [1890 p 297 § 3; RRS § 924. Prior: 1888 p 60 § 3.]

8.20.070 Adjudication of public use or private way of necessity. At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises, or other property described in said petition, have been duly served with said notice as above prescribed, and shall be further satisfied by competent proof that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really a public use, or is for a private use for a private way of necessity, and that the public interest requires the prosecution of such enterprise, or the private use is for a private way of necessity, and that the land, real estate, premises or other property sought to be appropriated are required and necessary for the purposes of such enterprise, the court or judge thereof may make an order, to be recorded in the minutes of said court, directing that a jury be summoned, or called, in the manner provided by law, to ascertain the compensation which shall be made for the land, real estate, premises or other property sought to be appropriated, unless a jury be waived as in other civil cases in courts of record, in the manner prescribed by law. [1927 c 88 § 1; 1897 c 46 § 1; 1890 p 297 § 4; RRS § 925. Prior: 1888 p 60 § 4.]

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Private ways of necessity: Chapter 8.24 RCW.

8.20.080 Trial, how conducted. A judge of the superior court shall preside at the trial which shall be held at such time as the court or the judge thereof may direct, at the courthouse in the county where the land, real estate, premises or other property sought to be appropriated is situated, and the jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation or company, or to the state, or to any county, by reason of the appropriation and use of such land, real estate, premises or other property by such corporation as aforesaid for any and all corporate purposes, and shall ascertain, determine and award the amount of damages to be paid to said owner or owners respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property for the purpose of such enterprise, irrespective of any benefit from any improvement proposed by such corporation. Upon the trial, witnesses may be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpoena in such proceedings shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. Upon the verdict of the jury, judgment shall be entered for the amount of the damages awarded to such owner or owners respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property. In

case a jury is waived as in civil cases in courts of record in the manner prescribed by law, the compensation to be paid for the property sought to be appropriated shall be ascertained and determined by the court or the judge thereof, and the proceedings shall be the same as in trials of an issue of fact by the court. [1890 p 297 § 5; RRS § 926.]

*Witnesses in civil actions
compelling attendance: Chapter 5.56 RCW.
examination: Title 5 RCW.*

8.20.090 Judgment—Decree of appropriation—Recording. At the time of rendering judgment for damages, whether upon default or trial, if the damages awarded be then paid, or upon their payment, if not paid at the time of rendering such judgment, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate, premises, right-of-way or other property sought to be appropriated, thereby vesting the legal title to the same in the corporation seeking to appropriate such land, real estate, premises, right-of-way or other property for corporate purposes. Whenever said judgment or decree of appropriation shall affect lands, real estate or other premises, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate and with like effect. If the title to said land, real estate, premises or other property attempted to be acquired is found to be defective from any cause, the corporation may again institute proceedings to acquire the same, as in RCW 8.20.010 through 8.20.140 provided. [1891 c 46 § 1; 1890 p 298 § 6; RRS § 927.]

Rules of court: CR 54, 58.

Recording of deeds of real estate: Title 65 RCW.

8.20.100 Payment of damages—Effect—Appellate review. Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the petitioner, or any officer of, or other person duly appointed by said corporation, may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs, to any land, real estate, premises or other property mentioned in said petition, such corporation shall be released and discharged from any and all further liability therefor, unless upon appellate review the owner or other person or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court, and the costs of appellate review: PROVIDED, That in case of review by the supreme court or the court of appeals of the state by any party to the proceedings, the money so paid into the superior court by such corporation as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court or the court of appeals. [1988 c 202 § 13; 1971 c 81 § 42; 1890 p 299 § 7; RRS § 929.]

Additional notes found at www.leg.wa.gov

8.20.110 Claimants, payment of—Conflicting claims.

Any person, corporation, state or county, claiming to be entitled to any money paid into court, as provided in RCW 8.20.010 through 8.20.140 may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he, she, or it is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he, she, or it shall be found entitled to; but if, upon application, the court or judge thereof shall decide that the title to the land, real estate, premises, or other property specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he or she shall refuse such order until such action is commenced and the conflicting claims to such land, real estate, premises, or other property be determined according to law. [2011 c 336 § 278; 1890 p 299 § 8; RRS § 930. Prior: 1888 p 61 § 8.]

8.20.120 Appellate review. Either party may seek appellate review of the judgment for damages entered in the superior court within thirty days after the entry of judgment as aforesaid and such review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the review: PROVIDED, HOWEVER, That no bond shall be required of any person interested in the property sought to be appropriated by such corporation, but in case the corporation appropriating such land, real estate, premises, or other property is appellant, it shall give a bond like that prescribed in RCW 8.20.130, to be executed, filed, and approved in the same manner: AND PROVIDED FURTHER, That if the owner of the land, real estate, premises, or other property accepts the sum awarded by the jury, the court, or the judge thereof, he or she shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases. [2011 c 336 § 279; 1988 c 202 § 14; 1971 c 81 § 43; 1890 p 300 § 9; RRS § 931. Prior: 1888 p 61 § 9.]

Additional notes found at www.leg.wa.gov

8.20.130 Prosecution of work pending appeal—Bond. The construction of any railway surface tramway, elevated cable tramway, or canal, or the prosecution of any works or improvements by any corporation as aforesaid shall not be hindered, delayed or prevented by the prosecution of the appeal of any party to the proceedings: PROVIDED, The corporation aforesaid shall execute and file with the clerk of the court in which the appeal is pending a bond to be approved by said clerk, with sufficient sureties, conditioned that the persons executing the same shall pay whatever amount may be required by the judgment of the court therein, and abide any rule or order of the court in relation to the matter in controversy. [1897 c 46 § 2; 1890 p 300 § 10; RRS § 932. Prior: 1888 p 62 § 10.]

8.20.140 Appropriation of railway right-of-way through canyon, pass, or defile. Any railroad company whose right-of-way passes through any canyon, pass or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass or defile for the purpose of its road in common with the road first located or the cross-

ing of other railroads at grade, and any railroad company authorized by law to appropriate land, real estate, premises or other property for right-of-way or any other corporate purpose may present a petition, in the manner and form hereinbefore provided, for the appropriation of a right-of-way through any canyon, pass or defile for the purpose of its road where right-of-way has already been located, condemned or occupied by some other railroad company through such canyon, pass or defile for the purpose of its road, and thereupon, like proceedings shall be had upon such petition as herein provided in other cases; and at the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall enter a judgment or decree authorizing said railroad company to occupy and use said right-of-way, roadbed and track, if necessary, in common with the railroad company or companies already occupying or owning the same, and defining the terms and conditions upon which the same shall be so occupied and used in common. [1890 p 301 § 12; RRS § 933.]

8.20.150 Prior entry with consent—Condemnation avoids ouster. No corporation authorized by law to condemn property for public use, which has heretofore entered or shall hereafter enter upon property for a public use with the consent of the record owner or the person or corporation in possession, shall be ousted from such possession or prevented from continuing the putting of such property to public use if before entry of judgment of ouster it shall institute proceedings in condemnation to acquire such property for public use, and shall thereafter prosecute the same in good faith and pay any compensation which may be awarded therein. [1927 c 219 § 1; RRS § 921-1.]

Additional notes found at www.leg.wa.gov

8.20.160 Three-year occupancy—Condemnation avoids ouster. No corporation which shall have been or shall be in possession of property put to public use for three or more years, and while continuing to put such property to public use shall be ousted therefrom or prevented from continuing such use if prior to the entry of any judgment of ouster it shall institute condemnation proceedings to acquire such property for public use, and shall thereafter prosecute the same in good faith and pay any compensation awarded therein. [1927 c 219 § 2; RRS § 921-2.]

8.20.170 Suit for compensation by owner equivalent to condemnation. Nothing in RCW 8.20.150 through 8.20.170 shall prevent the owner of any such property suing for and recovering compensation for such property without instituting suit or proceedings to oust such corporation therefrom, and upon payment of the amount awarded such owner title to the property shall vest in such corporation as effectually as if acquired by proceedings in condemnation. [1927 c 219 § 3; RRS § 921-3.]

Chapter 8.24 RCW PRIVATE WAYS OF NECESSITY

Sections

8.24.010 Condemnation authorized—Private way of necessity defined.
8.24.015 Joinder of surrounding property owners authorized.

(2020 Ed.)

8.24.025 Selection of route—Criteria.
8.24.030 Procedure for condemnation—Fees and costs.
8.24.040 Logging road must carry products of condemnees.

Additional provisions relating to eminent domain proceedings: Chapter 8.25 RCW.

Adjudication of public use or private way of necessity: RCW 8.20.070.

Appointment of guardian ad litem for minors, incapacitated persons: RCW 8.25.270.

8.24.010 Condemnation authorized—Private way of necessity defined. An owner, or one entitled to the beneficial use, of land which is so situate with respect to the land of another that it is necessary for its proper use and enjoyment to have and maintain a private way of necessity or to construct and maintain any drain, flume or ditch, on, across, over or through the land of such other, for agricultural, domestic or sanitary purposes, may condemn and take lands of such other sufficient in area for the construction and maintenance of such private way of necessity, or for the construction and maintenance of such drain, flume or ditch, as the case may be. The term "private way of necessity," as used in this chapter, shall mean and include a right-of-way on, across, over or through the land of another for means of ingress and egress, and the construction and maintenance thereon of roads, logging roads, flumes, canals, ditches, tunnels, tramways and other structures upon, over and through which timber, stone, minerals or other valuable materials and products may be transported and carried. [1913 c 133 § 1; RRS § 936-1. Prior: 1895 c 92 § 1. Formerly RCW 8.24.020, part.]

8.24.015 Joinder of surrounding property owners authorized. In any proceeding for the condemnation of land for a private way of necessity, the owner of any land surrounding and contiguous to the property which land might contain a site for the private way of necessity may be joined as a party. [1988 c 129 § 1.]

8.24.025 Selection of route—Criteria. If it is determined that an owner, or one entitled to the beneficial use of land, is entitled to a private way of necessity and it is determined that there is more than one possible route for the private way of necessity, the selection of the route shall be guided by the following priorities in the following order:

- (1) Nonagricultural and nonsilvicultural land shall be used if possible.
- (2) The least-productive land shall be used if it is necessary to cross agricultural land.
- (3) The relative benefits and burdens of the various possible routes shall be weighed to establish an equitable balance between the benefits to the land for which the private way of necessity is sought and the burdens to the land over which the private way of necessity is to run. [1988 c 129 § 2.]

8.24.030 Procedure for condemnation—Fees and costs. The procedure for the condemnation of land for a private way of necessity or for drains, flumes or ditches under the provisions of this chapter shall be the same as that provided for the condemnation of private property by railroad companies, but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation by railroad companies.

In any action brought under the provisions of this chapter for the condemnation of land for a private way of necessity, reasonable attorneys' fees and expert witness costs may be allowed by the court to reimburse the condemnee. [1988 c 129 § 3; 1913 c 133 § 2; RRS § 936-2. Prior: 1895 c 92 § 2.]

Condemnation by corporations: Chapter 8.20 RCW.

Railroads—Corporate powers and duties: RCW 81.36.010.

Special railroad eminent domain proceedings:

appropriation of railway right-of-way through canyon, pass or defile: RCW 8.20.140.

extensions, branch lines: RCW 81.36.060.

railroad crossings: RCW 81.53.180.

state university—Rights-of-way to railroads: RCW 28B.20.330.

8.24.040 Logging road must carry products of condemnees. That any person or corporation availing themselves of the provisions of this chapter for the purpose of acquiring a right-of-way for a logging road, as a condition precedent, contract and agree to carry and convey over such roads to either termini thereof any of the timber or other produce of the lands through which such right is acquired at any and all times, so long as said road is maintained and operated, and at reasonable prices; and a failure so to do shall terminate such right-of-way. The reasonableness of the rate shall be subject to determination by the utilities and transportation commission. [1913 c 133 § 3; RRS § 936-3. Prior: 1895 c 92 § 3.]

Chapter 8.25 RCW

ADDITIONAL PROVISIONS APPLICABLE TO EMINENT DOMAIN PROCEEDINGS

Sections

8.25.010	Pretrial statement of compensation to be paid in event of settlement.
8.25.020	Payment to defray costs of evaluating offer—Amount.
8.25.070	Award of attorney's fees and witness fees to condemnee—Conditions to award.
8.25.073	Award of costs in air space corridor acquisitions—Conditions.
8.25.075	Costs—Award to condemnee or plaintiff—Conditions.
8.25.120	Conclusions of appraisers—Order for production and exchange between parties.
8.25.210	Special benefits to remaining property—Purpose.
8.25.220	Special benefits to remaining property—Options—Election by owner—Consent to creation of lien.
8.25.230	Special benefits to remaining property—Satisfaction or release of lien—Trial—Expiration of lien by operation of law.
8.25.240	Special benefits to remaining property—Judgment—Maximum amounts—Offsets—Interest.
8.25.250	Special benefits to remaining property—Attorney fees—Witness fees.
8.25.260	Special benefits to remaining property—Lien foreclosure proceedings—Stay.
8.25.270	Appointment of guardian ad litem for minors, alleged incapacitated persons—Protection of interests.
8.25.280	Valuation of public water systems.
8.25.290	Condemnation final actions—Notice required—"Final action" defined.

Property subject to unpaid or delinquent local improvement assessments: RCW 79.44.190.

Publication of notice: RCW 4.28.120.

8.25.010 Pretrial statement of compensation to be paid in event of settlement. In all actions for the condemnation of property, or any interest therein, at least thirty days prior to the date set for trial of such action the condemnor shall serve a written statement showing the amount of total

just compensation to be paid in the event of settlement on each condemnee who has made an appearance in the action. [1965 ex.s. c 125 § 1.]

8.25.020 Payment to defray costs of evaluating offer—Amount. There shall be paid by the condemnor in respect of each parcel of real property acquired by eminent domain or by consent under threat thereof, in addition to the fair market value of the property, a sum equal to the various expenditures actually and reasonably incurred by those with an interest or interests in said parcel in the process of evaluating the condemnor's offer to buy the same, but not to exceed a total of seven hundred fifty dollars. In the case of multiple interests in a parcel, the division of such sum shall be determined by the court or by agreement of the parties. [1999 c 52 § 1; 1967 ex.s. c 137 § 1; 1965 ex.s. c 125 § 2.]

8.25.070 Award of attorney's fees and witness fees to condemnee—Conditions to award. (1) Except as otherwise provided in subsection (3) of this section, if a trial is held for the fixing of the amount of compensation to be awarded to the owner or party having an interest in the property being condemned, the court shall award the condemnee reasonable attorney's fees and reasonable expert witness fees in the event of any of the following:

(a) If condemnor fails to make any written offer in settlement to condemnee at least thirty days prior to commencement of said trial; or

(b) If the judgment awarded as a result of the trial exceeds by ten percent or more the highest written offer in settlement submitted to those condemnees appearing in the action by condemnor in effect thirty days before the trial.

(2) The attorney general or other attorney representing a condemnor in effecting a settlement of an eminent domain proceeding may allow to the condemnee reasonable attorney fees.

(3) Reasonable attorney fees and reasonable expert witness fees authorized by this section shall be awarded only if the condemnee stipulates, if requested to do so in writing by the condemnor, to an order of immediate possession and use of the property being condemned within thirty days after receipt of the written request, or within fifteen days after the entry of an order adjudicating public use whichever is later and thereafter delivers possession of the property to the condemnor upon the deposit in court of a warrant sufficient to pay the amount offered as provided by law. In the event, however, the condemnor does not request the condemnee to stipulate to an order of immediate possession and use prior to trial, the condemnee shall be entitled to an award of reasonable attorney fees and reasonable expert witness fees as authorized by subsections (1) and (2) of this section.

(4) Reasonable attorney fees as authorized in this section shall not exceed the general trial rate, per day customarily charged for general trial work by the condemnee's attorney for actual trial time and his or her hourly rate for preparation. Reasonable expert witness fees as authorized in this section shall not exceed the customary rates obtaining in the county by the hour for investigation and research and by the day or half day for trial attendance.

(5) In no event may any offer in settlement be referred to or used during the trial for any purpose in determining the

amount of compensation to be paid for the property. [1984 c 129 § 1; 1971 ex.s. c 39 § 3; 1967 ex.s. c 137 § 3.]

Court appointed experts: Rules of court: ER 706.

8.25.073 Award of costs in air space corridor acquisitions—Conditions. A superior court having jurisdiction of a proceeding instituted by a condemnor to acquire an air space corridor together with other property rights shall award the condemnee costs including reasonable attorney fees and reasonable expert witness fees, subject to the provisions of subsection (4) of RCW 8.25.070, if—

(1) there is a final adjudication that the condemnor cannot acquire the air space corridor or other property rights by condemnation; or

(2) the proceeding is abandoned by the condemnor. [1971 ex.s. c 39 § 2.]

8.25.075 Costs—Award to condemnee or plaintiff—Conditions. (1) A superior court having jurisdiction of a proceeding instituted by a condemnor to acquire real property shall award the condemnee costs including reasonable attorney fees and reasonable expert witness fees if:

(a) There is a final adjudication that the condemnor cannot acquire the real property by condemnation; or

(b) The proceeding is abandoned by the condemnor.

(2) In effecting a settlement of any claim or proceeding in which a claimant seeks an award from an acquiring agency for the payment of compensation for the taking or damaging of real property for public use without just compensation having first been made to the owner, the attorney general or other attorney representing the acquiring agency may include in the settlement amount, when appropriate, costs incurred by the claimant, including reasonable attorneys' fees and reasonable expert witness fees.

(3) A superior court rendering a judgment for the plaintiff awarding compensation for the taking or damaging of real property for public use without just compensation having first been made to the owner shall award or allow to such plaintiff costs including reasonable attorney fees and reasonable expert witness fees, but only if the judgment awarded to the plaintiff as a result of trial exceeds by ten percent or more the highest written offer of settlement submitted by the acquiring agency to the plaintiff at least thirty days prior to trial.

(4) Reasonable attorney fees and expert witness fees as authorized in this section shall be subject to the provisions of subsection (4) of RCW 8.25.070 as now or hereafter amended. [1977 ex.s. c 72 § 1; 1971 ex.s. c 240 § 21.]

8.25.120 Conclusions of appraisers—Order for production and exchange between parties. After the commencement of a condemnation action, upon motion of either the condemnor or condemnee, the court may order, upon such terms and conditions as are fair and equitable the production and exchange of the written conclusions of all the appraisers of the parties as to just compensation owed to the condemnee, as prepared for the purpose of the condemnation action, and the comparable sales, if any, used by such appraisers. The court shall enter such order only after assurance that there will be mutual, reciprocal and contemporane-

ous disclosures of similar information between the parties. [1969 ex.s. c 236 § 8.]

8.25.210 Special benefits to remaining property—Purpose. It is the purpose of *this 1974 act to provide procedures whereby more just and equitable results are accomplished when real property has been condemned for a highway, road, or street and an award made which is subject to a setoff for benefits inuring to the condemnee's remaining land. [1974 ex.s. c 79 § 1.]

***Reviser's note:** For codification of "this 1974 act" [1974 ex.s. c 79], see Codification Tables.

8.25.220 Special benefits to remaining property—Options—Election by owner—Consent to creation of lien. Whenever land, real estate, premises or other property is to be taken or damaged for a highway, road, or street and the amount offered as just compensation includes a setoff in recognition of special benefits accruing to a remainder portion of the property the property owner shall elect one of the following options:

(1) Trial on the question of just compensation which shall finally determine the amount of just compensation; or

(2) Acceptance of the offered amount as a final determination of just compensation; or

(3) Demand the full amount of the fair market value of any property taken plus the amount of damages if any caused by such acquisition to a remainder of the property without offsetting the amount of any special benefits accruing to a remainder of the property as those several amounts are agreed to by the parties; or

(4) Demand a trial before a jury unless jury be waived to establish the fair market value of any property taken and the amount of damages if any caused by such acquisition to a remainder of the property without offsetting the amount of any special benefits accruing to a remainder of the property.

The selection of the option set forth in subsections (3) or (4) of this section is subject to the consent by the property owner to the creation and recording of a lien against the remainder in the amount of the fair market value of any property taken plus the amount of damages caused by such acquisition to the remainder of the property without offsetting the amount of any special benefits accruing to a remainder of the property, plus interest as it accrues. [1974 ex.s. c 79 § 2.]

8.25.230 Special benefits to remaining property—Satisfaction or release of lien—Trial—Expiration of lien by operation of law. A lien established as provided in RCW 8.25.220 shall be satisfied or released by:

(1) Agreement between the parties to that effect; or

(2) Payment of the lien amount plus interest at the rate of five percent per annum; or

(3) Payment of the amount of offsetting special benefits as established pursuant to RCW 8.25.220(3) plus interest at the rate of five percent per annum within four years of the date of acquisition; or

(4) Satisfaction of a judgment lien entered as a result of a trial before a jury unless jury be waived to establish the change in value of the remainder of the original parcel because of the construction of the project involved: PROVIDED, That if the result of the trial is to find no special ben-

efits then the lien is extinguished by operation of law. Trial may be had on the petition of any party to the superior court of the county wherein the subject remainder lies after notice of intent to try the matter of special benefits has been served on all persons having an interest in the subject remainder. Such notice shall be filed with the clerk of the superior court and personally served upon all persons having an interest in the subject remainder. Filing a notice of intent to try the matter of special benefits shall be accompanied by a fee in the amount paid when filing a petition in condemnation.

(5) Upon expiration of six years time from the date of acquisition without commencement of proceedings to foreclose the lien or try the matter of special benefits to the remainder of the property, the lien shall terminate by operation of law. [1974 ex.s. c 79 § 3.]

8.25.240 Special benefits to remaining property—Judgment—Maximum amounts—Offsets—Interest. A judgment entered as a result of a trial on the matter of special benefits shall not exceed the previously established sum of (1) the fair market value of any property taken; (2) the amount of damages if any to a remainder of the property, without offsetting against either of them the amount of any special benefits accruing to a remainder of the property; (3) the interest at five percent per annum accrued thereon to the date of entry of the judgment. [1974 ex.s. c 79 § 4.]

8.25.250 Special benefits to remaining property—Attorney fees—Witness fees. Attorney fees and expert witness fees of the condemnee may be allowed by the attorney general or other attorney representing a condemnor to the extent provided in RCW 8.25.070 and shall be awarded by the court as authorized by this section to the extent provided in RCW 8.25.070 for trial and trial preparation: (1) In the event a trial is held as authorized by RCW 8.25.220 except the judgment awarded to the condemnor must exceed by ten percent or more the highest written offer in settlement of the issue to be determined by trial submitted by the condemnor to those condemnees appearing in the action at least thirty days prior to commencement of the trial; (2) in the event of a trial on the matter of special benefits as authorized by RCW 8.25.230(4) except the judgment awarded to the condemnor must be no more than ninety percent of the lowest written offer in settlement submitted by the condemnor to the condemnees appearing in the action at least thirty days prior to commencement of the trial on the matter of special benefits. [1974 ex.s. c 79 § 5.]

8.25.260 Special benefits to remaining property—Lien foreclosure proceedings—Stay. A condemnor may foreclose the lien authorized by RCW 8.25.220 by bringing an action and applying for summary judgment pursuant to civil rule 56 and may execute first upon the remainder property but such proceedings shall not be commenced before five years time has passed from the date of acquisition by the condemnor. A property owner may stay proceedings to enforce the lien authorized by RCW 8.25.220 by commencement of an action to try the matter of special benefits. [1974 ex.s. c 79 § 6.]

8.25.270 Appointment of guardian ad litem for minors, alleged incapacitated persons—Protection of interests. When it appears in any petition or otherwise at any time during the proceedings for condemnation brought pursuant to chapters 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW that any minor, or alleged incapacitated person is interested in any property that is to be taken or damaged, the court shall appoint a guardian ad litem for the minor or alleged incapacitated person to appear and assist in the person's defense, unless a guardian or limited guardian has previously been appointed, in which case the duty to appear and assist shall be delegated to the properly qualified guardian or limited guardian. The court shall make such orders or decrees as it shall deem necessary to protect and secure the interest of the minor or alleged incapacitated person. [1996 c 249 § 6; 1977 ex.s. c 80 § 12.]

Intent—1996 c 249: See note following RCW 2.56.030.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

8.25.280 Valuation of public water systems. Consistent with standard appraisal practices, the valuation of a public water system as defined in *RCW 70.119A.020 shall reflect the cost of system improvements necessary to comply with health and safety rules of the state board of health and applicable regulations developed under chapter 43.20, 43.20A, or **70.116 RCW. [1990 c 133 § 9.]

Reviser's note: *(1) RCW 70.119A.020 was recodified as RCW 70A.125.010 pursuant to 2020 c 20 § 2038.

** (2) Chapter 70.116 RCW was recodified as chapter 70A.100 RCW pursuant to 2020 c 20 § 2033.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

8.25.290 Condemnation final actions—Notice required—"Final action" defined. (1) The condemnor must provide notice as required by this section before:

(a) A state agency or other entity subject to chapter 8.04 RCW takes a final action to authorize the condemnation of a specific property;

(b) A county or other entity subject to chapter 8.08 RCW takes a final action deeming a specific property to be "for county purposes" as provided in RCW 8.08.010;

(c) A city or town or other entity subject to chapter 8.12 RCW takes a final action authorizing condemnation as provided in RCW 8.12.040;

(d) A school district or other entity subject to chapter 8.16 RCW takes a final action selecting property for condemnation as provided in RCW 8.16.010;

(e) Any other corporation authorized to condemn property takes a final action to authorize condemnation as provided in RCW 8.20.010; or

(f) Any other entity subject to chapter 8.04, 8.08, 8.12, 8.16, or 8.20 RCW takes any final action to authorize the condemnation of a specific property.

(2)(a)(i) Notice of the planned final action shall be mailed by certified mail to each and every property owner of record as indicated on the tax rolls of the county to the address provided on such tax rolls, for each property potentially subject to condemnation, at least fifteen days before the final action. If no address is provided for a property on the tax rolls of the county, the potential condemnor shall conduct a

diligent inquiry for the address for each and every property owner of record and send the notice to that address. In case the property sought to be appropriated is school or county land, such notice shall be mailed to the auditor of the county in which the property sought to be acquired and appropriated is situated.

(ii) The notice must contain a general description of the property such as an address, lot number, or parcel number and specify that condemnation of the property will be considered during the final action. The notice must also describe the date, time, and location of the final action at which the potential condemnor will decide whether or not to authorize the condemnation of the property.

(iii) Mailing of the certified letter to the proper addressee or addressees is deemed to be sufficient notice under this subsection (2)(a).

(b)(i) Notice of a planned final action described in subsection (1) of this section shall also be given by publication in the legal newspaper with the largest circulation in the jurisdiction where such property is located once a week for two successive weeks before the final action. A second publication must also be given in the legal newspaper routinely used by the potential condemnor, where such newspaper does not also have the largest circulation in the jurisdiction. Proof of circulation shall be established by publisher's affidavit filed with the potential condemnor. Such publication shall be deemed sufficient notice in lieu of a certified letter for each property owner of record for the property whose address is unknown and cannot be ascertained after a diligent inquiry.

(ii) The notice published under this subsection (2)(b) shall contain the same information as is required under (a) of this subsection.

(3) In a condemnation action subject to this section in which a condemnee alleges insufficient notice under this section, the court may determine whether the condemnor made a diligent attempt to provide sufficient notice and issue a finding on the sufficiency of the notice. Lack of sufficient notice under this section shall render the subsequent proceedings void as to the person improperly notified, but the subsequent proceedings shall not be void as to all persons or parties having been notified as provided in this section, either by publication or otherwise. A potential condemnor may cure insufficient notice under this section by providing an additional sufficient notice prior to taking a new final action, and filing a new petition if one was previously filed, for condemnation for the property owner of record who received insufficient notice. In such a case, RCW 8.12.530 shall not apply and a subsequent proceeding may be filed sooner than one year after discontinuance.

(4)(a) For potential condemnors subject to chapter 42.30 RCW, the open public meetings act, "final action" has the same meaning as that provided in RCW 42.30.020.

(b) For state agencies not subject to chapter 42.30 RCW, the office of the attorney general shall publish procedures that define "final action" for state agencies to ensure that property owners of record are provided with notice and opportunity for comment before the agency makes a final decision to authorize the condemnation of specific property.

(c) For all other entities subject to chapter 68, Laws of 2007, "final action" means a public meeting at which the entity informs potentially affected property owners of record

about the scope and reasons for a potential condemnation action. A meeting must be held in each county where property being considered for condemnation is located. The meeting must be open to the public and conducted by a duly authorized representative of the entity. [2007 c 68 § 1.]

Chapter 8.26 RCW

RELOCATION ASSISTANCE—REAL PROPERTY ACQUISITION POLICY

Sections

8.26.010	Purposes—Applicability.
8.26.020	Definitions.
8.26.035	Payment for moving and related expenses.
8.26.045	Payment for replacement housing for homeowners.
8.26.055	Payment for replacement housing for tenants and others.
8.26.065	Relocation assistance advisory services.
8.26.075	Assurance of availability of housing—Exceptions.
8.26.085	Lead agency's rule-making authority—Compliance date.
8.26.095	Contracts for services—Use of services of other agencies.
8.26.105	Use of funds.
8.26.115	Relocation assistance payments not income or resources.
8.26.180	Acquisition procedures.
8.26.190	Acquisition of buildings, structures, and improvements.
8.26.200	Expenses incidental to transfer of right, title, or interest to the acquiring agency.
8.26.205	Effect on certain property acquisitions.
8.26.210	Award of costs, attorney's fees, witness fees—Conditions.
8.26.901	Severability—Conflict with federal requirements—1988 c 90.
8.26.910	Effective date—1971 ex.s. c 240.

8.26.010 Purposes—Applicability. (1) The purposes of this chapter are:

(a) To establish a uniform policy for the fair and equitable treatment of persons displaced as a direct result of public works programs of the state and local governments in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons;

(b) To encourage and expedite the acquisition of real property for public works programs by agreements with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by state and local programs, and to promote public confidence in state and local land acquisition practices;

(c) To require the state, local public agencies, and other persons who have the authority to acquire property by eminent domain under state law to comply with the provisions of chapter 213, Laws of 2017 in order to assure the fair and equitable treatment of all persons and property owners impacted by public projects.

(2) Any determination by the head of a state agency or local public agency administering a program or project as to payments under this chapter is subject to review pursuant to chapter 34.05 RCW; otherwise, no provision of this chapter may be construed to give any person a cause of action in any court.

(3) Unless otherwise prohibited by law, any state or local public agency providing a grant, loan, or matching funds for any program or project that displaces persons who are eligible for relocation assistance under this chapter may not limit, restrict, or otherwise prohibit grant, loan, or matching fund money from being used for any required relocation assistance payments.

(4) The governing body of any local public agency may elect not to comply with the provisions of RCW 8.26.035 through 8.26.115 in connection with a program or project not receiving federal financial assistance initiated on or before December 31, 2017.

(5) Nothing in this chapter may be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately before March 16, 1988. [2017 c 213 § 1; 1988 c 90 § 1; 1971 ex.s. c 240 § 1.]

Additional notes found at www.leg.wa.gov

8.26.020 Definitions. As used in this chapter:

(1) The term "state" means any department, commission, agency, or instrumentality of the state of Washington.

(2) The term "local public agency" applies to any county, city or town, or other municipal corporation or political subdivision of the state and any person who has the authority to acquire property by eminent domain under state law, or any instrumentality of any of the foregoing.

(3) The term "person" means any individual, partnership, corporation, or association.

(4)(a) The term "displaced person" means, except as provided in (c) of this subsection, any person who moves from real property, or moves his or her personal property from real property:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, such real property in whole or in part for a program or project undertaken by a displacing agency; or

(ii) On which the person is a residential tenant or conducts a small business, a farm operation, or a business defined in this section, as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a displacing agency in any case in which the displacing agency determines that the displacement is permanent.

(b) Solely for the purposes of RCW 8.26.035 (1) and (2) and 8.26.065, the term "displaced person" includes any person who moves from real property, or moves his or her personal property from real property:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, other real property in whole or in part on which the person conducts a business or farm operation, for a program or project undertaken by a displacing agency; or

(ii) As a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which the person conducts a business or a farm operation, under a program or project undertaken by a displacing agency where the displacing agency determines that the displacement is permanent.

(c) The term "displaced person" does not include:

(i) A person who has been determined, according to criteria established by the lead agency, to be either unlawfully occupying the displacement dwelling or to have occupied the dwelling for the purpose of obtaining assistance under this chapter; or

(ii) In any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of the property at the time it was

acquired) who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(5) The term "business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of RCW 8.26.035, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(6) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or for home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(7) The term "comparable replacement dwelling" means any dwelling that is (a) decent, safe, and sanitary; (b) adequate in size to accommodate the occupants; (c) within the financial means of the displaced person; (d) functionally equivalent; (e) in an area not subject to unreasonably adverse environmental conditions; and (f) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(8) For purposes of RCW 8.26.180 through 8.26.200, the term "acquiring agency" means:

(a) A state agency or local public agency that has the authority to acquire property by eminent domain under state law; or

(b) Any state agency, local public agency, or person that (i) does not have the authority to acquire property by eminent domain under state law and (ii) has been designated an "acquiring agency" under rules adopted by the lead agency. However, the lead agency may only designate a state agency, local public agency, or a person as an "acquiring agency" to the extent that it is necessary in order to qualify for federal financial assistance.

(9) The term "displacing agency" means the state agency, local public agency, or any person carrying out a program or project, with federal or state financial assistance, that causes a person to be a displaced person.

(10) The term "federal financial assistance" means a grant, loan, or contribution provided by the United States, except any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(11) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this state, together with the credit instruments, if any, secured thereby.

(12) The term "lead agency" means the Washington state department of transportation.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. [2011 c 336 § 280; 2003 c 254 § 1; 1988 c 90 § 2; 1972 ex.s. c 34 § 1; 1971 ex.s. c 240 § 2.]

Additional notes found at www.leg.wa.gov

8.26.035 Payment for moving and related expenses.

(1) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:

(a) Actual reasonable expenses in moving himself or herself, or his or her family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, in accordance with criteria established by the lead agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the lead agency, but not to exceed fifty thousand dollars or the dollar amount allowed under 42 U.S.C. Sec. 4622 as it existed on July 23, 2017, or such subsequent date as may be provided by the displacing agency by rule or regulation, consistent with the purposes of this section, whichever is greater.

(2) A displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive an expense and dislocation allowance determined according to a schedule established by the lead agency.

(3) A displaced person eligible for payments under subsection (1) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section. The payment shall consist of a fixed payment in an amount to be determined according to criteria established by the lead agency, except that the payment shall be not less than the dollar amount allowed under 42 U.S.C. Sec. 4622 as it existed on July 23, 2017, or such subsequent date as may be provided by the displacing agency by rule or regulation, consistent with the purposes of this section. A person whose sole business at the displacement dwelling is the rental of that property to others does not qualify for a payment under this subsection. [2017 c 12 § 1; 2003 c 357 § 1; 1988 c 90 § 3.]

Additional notes found at www.leg.wa.gov

8.26.045 Payment for replacement housing for homeowners. (1) In addition to payments otherwise authorized by this chapter, the displacing agency shall make an additional

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payment, not in excess of the dollar amount allowed under 42 U.S.C. Sec. 4623 as it existed on July 23, 2017, or such subsequent date as may be provided by the displacing agency by rule or regulation, consistent with the purposes of this section, to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than ninety days immediately before the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

(a) The amount, if any, that when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable and necessary cost of a comparable replacement dwelling;

(b) The amount, if any, that will compensate the displaced person for any increased mortgage interest costs and other debt service costs that the person is required to pay for financing the acquisition of any such comparable replacement dwelling. This amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than one hundred and eighty days immediately before the initiation of negotiations for the acquisition of the dwelling;

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which the person receives final payment from the displacing agency for the acquired dwelling or the date on which the obligation of the displacing agency under RCW 8.26.075 is met, whichever date is later, except that the displacing agency may extend the period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of that date. [2017 c 12 § 2; 1988 c 90 § 4.]

Additional notes found at www.leg.wa.gov

8.26.055 Payment for replacement housing for tenants and others.

(1) In addition to amounts otherwise authorized by this chapter, a displacing agency shall make a payment to or for a displaced person displaced from a dwelling not eligible to receive a payment under RCW 8.26.045 if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety days immediately before (a) the initiation of negotiations for acquisition of the dwelling, or (b) in any case in which displacement is not a direct result of acquisition, such other event as the lead agency prescribes. The payment shall consist of the amount necessary to enable the person to lease or rent for a period not to exceed forty-two months, a comparable replacement dwelling, but not to exceed the dollar amount allowed under 42 U.S.C. Sec. 4624 as it existed on July 23, 2017, or such subsequent date as may be provided by the displacing agency by rule or regulation, consistent with the purposes of this section. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person

for a comparable replacement dwelling shall take into account the person's income.

(2) A person eligible for a payment under subsection (1) of this section may elect to apply the payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (1) of this section. [2017 c 12 § 3; 1988 c 90 § 5.]

Additional notes found at www.leg.wa.gov

8.26.065 Relocation assistance advisory services. (1)

Programs or projects undertaken by a displacing agency shall be planned in a manner that (a) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (b) provides for the resolution of the problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(2) Displacing agencies shall ensure that the relocation assistance advisory services described in subsection (3) of this section are made available to all persons displaced by the agency. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make available to the person the advisory services.

(3) Each relocation assistance advisory program required by subsection (2) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(b) Provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

(c) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(d) Supply (i) information concerning federal, state, and local programs that may be of assistance to displaced persons, and (ii) technical assistance to the persons in applying for assistance under those programs;

(e) Provide other advisory services to displaced persons in order to minimize hardships to them in adjusting to relocation; and

(f) Coordinate relocation activities performed by the agency with other federal, state, or local governmental actions in the community that could affect the efficient and effective delivery of relocation assistance and related services.

(4) Notwithstanding *RCW 8.26.020(4)(b), in any case in which a displacing agency acquires property for a program or project, a person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project is eligible

for advisory services to the extent determined by the displacing agency. [1988 c 90 § 6.]

*Reviser's note: RCW 8.26.020 was amended by 2003 c 254 § 1, changing subsection (4)(b) to subsection (4)(c).

Additional notes found at www.leg.wa.gov

8.26.075 Assurance of availability of housing—

Exceptions. (1) If a program or project undertaken by a displacing agency cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that the dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide the dwellings by use of funds authorized for the project. The displacing agency may use this section to exceed the maximum amounts that may be paid under RCW 8.26.045 and 8.26.055 on a case-by-case basis for good cause as determined in accordance with rules adopted by the lead agency.

(2) No person may be required to move from a dwelling on account of any program or project undertaken by a displacing agency unless the displacing agency is satisfied that comparable replacement housing is available to the person.

(3) The displacing agency shall assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of the following:

(a) A major disaster as defined in section 102(2) of the Federal Disaster Relief Act of 1974;

(b) A national emergency declared by the president; or

(c) Any other emergency that requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person. [1988 c 90 § 7.]

Additional notes found at www.leg.wa.gov

8.26.085 Lead agency's rule-making authority—

Compliance date. (1) The lead agency, after full consultation with the department of enterprise services, shall adopt rules and establish such procedures as the lead agency may determine to be necessary to assure:

(a) That the payments and assistance authorized by this chapter are administered in a manner that is fair and reasonable and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for that person by this chapter is paid promptly after a move or, in hardship cases, is paid in advance; and

(c) That a displaced person who is aggrieved by a program or project that is under the authority of a state agency or local public agency may have his or her application reviewed by the state agency or local public agency.

(2) The lead agency, after full consultation with the department of enterprise services, may adopt such other rules and procedures, consistent with the provisions of this chapter, as the lead agency deems necessary or appropriate to carry out this chapter.

(3) State agencies and local public agencies shall comply with the rules adopted pursuant to this section by April 2, 1989. [2015 c 225 § 7; 2011 c 336 § 281; 1988 c 90 § 8.]

Additional notes found at www.leg.wa.gov

8.26.095 Contracts for services—Use of services of other agencies. In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, a state agency or local public agency may enter into contracts with any individual, firm, association, or corporation for services in connection with this chapter or may carry out its functions under this chapter through any federal or state agency or local public agency having an established organization for conducting relocation assistance programs. The state agency or local public agency shall, in carrying out relocation activities described in RCW 8.26.075, whenever practicable, use the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities. [1988 c 90 § 9.]

Additional notes found at www.leg.wa.gov

8.26.105 Use of funds. (1) Funds appropriated or otherwise available to a state agency or local public agency for the acquisition of real property or an interest therein for a particular program or project shall also be available to carry out the provisions of this chapter as applied to that program or project.

(2) No payment or assistance under this chapter may be required to be made to any person or included as a program or project cost under this section, if the person receives a payment required by federal, state, or local law that is determined by the head of the displacing agency to have substantially the same purpose and effect as that payment under this chapter. [1988 c 90 § 10.]

Additional notes found at www.leg.wa.gov

8.26.115 Relocation assistance payments not income or resources. No payment received by a displaced person under RCW 8.26.035 through 8.26.105 may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of any income tax or any tax imposed under Title 82 RCW, and the payments shall not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW. [1988 c 90 § 11.]

Additional notes found at www.leg.wa.gov

8.26.180 Acquisition procedures. Every acquiring agency shall, to the greatest extent practicable, be guided by the following policies:

(1) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his or her designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during his or her inspection of the property, except that the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value.

(3) Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation therefor, and shall make a

prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The acquiring agency shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where appropriate the just compensation for the real property acquired, for damages to remaining real property, and for benefits to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the acquiring agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his or her business or farm operation without at least ninety days written notice of the date by which such move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the time of condemnation be advanced, *on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his or her real property.

(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the agency concerned shall offer to acquire that remnant. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and that the head of the agency concerned has determined has little or no value or utility.

(10) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his or her right to receive just compensation for the property, donate the property, any part thereof, any interest therein, or any compensation paid for it to any agency

as the person may determine. [2011 c 336 § 282; 1988 c 90 § 12; 1971 ex.s. c 240 § 18.]

***Reviser's note:** The word "or" may have been intended. The language of subsection (7) of this section is similar to language found in 49 C.F.R. 24.102(h).

Additional notes found at www.leg.wa.gov

8.26.190 Acquisition of buildings, structures, and improvements. (1) Where any interest in real property is acquired, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which is determined to be adversely affected by the use to which such real property will be put.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under subsection (1) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant of the lands, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his or her term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the owner of such building, structure, or improvement.

(3) Payment for such building, structure, or improvement under subsection (1) of this section shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all his or her right, title, and interest in and to such improvements. Nothing with regard to the above mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of this state. [2011 c 336 § 283; 1988 c 90 § 13; 1971 ex.s. c 240 § 19.]

Additional notes found at www.leg.wa.gov

8.26.200 Expenses incidental to transfer of right, title, or interest to the acquiring agency. As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, the acquiring agency shall reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring agency;

(2) Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is the earlier. [1988 c 90 § 14; 1971 ex.s. c 240 § 20.]

Additional notes found at www.leg.wa.gov

8.26.205 Effect on certain property acquisitions. The provisions of RCW 8.26.180, 8.26.190, and 8.26.200 create no rights or liabilities and do not affect the validity of any property acquisitions by purchase or condemnation. [1988 c 90 § 15.]

Additional notes found at www.leg.wa.gov

8.26.210 Award of costs, attorney's fees, witness fees—Conditions. See RCW 8.25.070, 8.25.075.

8.26.901 Severability—Conflict with federal requirements—1988 c 90. (1) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(2) If any part of this chapter is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and that finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [1988 c 90 § 16.]

8.26.910 Effective date—1971 ex.s. c 240. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1971. [1971 ex.s. c 240 § 24.]

Chapter 8.28 RCW MISCELLANEOUS PROVISIONS

Sections

8.28.010	Where state land is involved—Service of process—Filing of decree—Duty of land commissioner.
8.28.030	Notice where military land is involved.
8.28.040	Interest on verdict fixed—Suspension during pendency of appeal.
8.28.050	City in adjoining state may condemn watershed property.

Opening of roads, railroads through cemetery—Consent required: RCW 68.24.180.

Petroleum leases—Rights-of-way over public lands: RCW 79.14.140.

Property subject to unpaid or delinquent local improvement assessments: RCW 79.44.190.

Public lands: Chapter 79.02 RCW.

Water rights

artesian wells, rights-of-way to: RCW 90.36.010.

generally: RCW 90.03.040.

of the United States: RCW 90.40.010.

8.28.010 Where state land is involved—Service of process—Filing of decree—Duty of land commissioner. In all condemnation proceedings brought for the purpose of

appropriating any public land owned by the state or in which the state has an interest, service of process shall be made upon the commissioner of public lands.

When in any condemnation proceeding a decree is entered appropriating public lands owned by the state or in which the state has an interest, or any interest in or rights over such lands, it shall be the duty of the plaintiff to cause to be filed in the office of the commissioner of public lands a certified copy of such decree, together with a plat of the lands appropriated and the lands contiguous thereto, in form and substance as prescribed and required by the commissioner of public lands, showing in detail the lands appropriated, and to pay to the commissioner of public lands, or into the registry of the court, the amount of compensation and damages fixed and awarded in the decree. Upon receipt of such decree, plat, compensation and damages, the commissioner of public lands shall examine the same, and if he or she shall find that the final decree and proceedings comply with the original petition and notice and any amendment duly authorized, and that no additional interest of the state has been taken or appropriated through error or mistake, he or she shall cause notations thereof to be made upon the abstracts, records and tract books in his or her office, and shall issue to the plaintiff his or her certificate, reciting compliance, in substance, with the above requirements, particularly describing the lands appropriated, and shall forthwith transmit the amount received as compensation and damages to the state treasurer, as in the case of sale of land, and the subdivision of land through which any right-of-way is appropriated shall thereafter be sold or leased subject to the right-of-way. [2011 c 336 § 284; 1927 c 255 § 104; RRS § 7797-104. Formerly RCW 8.28.010 and 8.28.020.]

8.28.030 Notice where military land is involved.

Whenever any land, real estate, premises or other property owned by the state of Washington and used for military purposes shall be involved in or affected by any eminent domain, condemnation, local improvement or other special assessment proceeding whatsoever, in addition to the notices elsewhere provided by law, the officer or board required by law to give notice of such proceedings shall cause to be served upon the adjutant general at least twenty days in advance of any hearing therein, a written notice, setting forth the nature of the proceedings, the description of such state property sought to be involved therein or affected thereby and the amount of the proposed assessment therein. [1917 c 107 § 125; RRS § 8600.]

Condemnation for military purposes: RCW 8.04.170, 8.04.180.

8.28.040 Interest on verdict fixed—Suspension during pendency of appeal. Whenever in any eminent domain proceeding, heretofore or hereafter instituted for the taking or damaging of private property, a verdict shall have been returned by the jury, or by the court if the case be tried without a jury, fixing the amount to be paid as compensation for the property so to be taken or damaged, such verdict shall bear interest at the maximum rate of interest permitted at that time under RCW 19.52.020 from the date of its entry to the date of payment thereof: PROVIDED, That the running of such interest shall be suspended, and such interest shall not accrue, for any period of time during which the entry of final

judgment in such proceeding shall have been delayed solely by the pendency of an appeal taken in such proceeding. [1984 c 129 § 2; 1943 c 28 § 1; Rem. Supp. 1943 § 936-4.]

8.28.050 City in adjoining state may condemn watershed property. That any municipal corporation of any state adjoining the state of Washington may acquire title to any land or water right within the state of Washington, by purchase or condemnation, which lies within any watershed from which said municipal corporation obtains or desires to obtain its water supply. [1909 c 16 § 1; RRS § 9280.]

