

Senate Bill 348

By: Senator McKoon of the 29th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to acquisition of property for transportation purposes,  
3 so as to provide for attorney's fees and expenses of trial in appeals to condemnation  
4 compensation award amounts; to provide for related matters; to repeal conflicting laws; and  
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated, relating to  
9 general provisions relative to acquisition of property for transportation purposes, is amended  
10 by revising Code Section 32-3-19, relating to jury's award in appeals to condemnation  
11 compensation, as follows:

12 "32-3-19.

13 (a) The verdict of the jury shall have respect to the lands described in the declaration of  
14 taking as set forth in Code Section 32-3-6, or such interest therein as may be described in  
15 said declaration, or to any separate claim against the property or interest therein as may be  
16 ordered and may be molded under the direction of the court so as to do complete justice  
17 and avoid confusion of interest. The court shall give such direction as to the disposition  
18 of the fund as shall be proper according to the rights of the several respondents.

19 (b) After the verdict of the jury, the court shall, in instances where no motion for new trial  
20 or notice of appeal is filed within the time provided for by law or where such verdict has  
21 been affirmed by a proper appellate court and the remittitur from such court has been made  
22 the judgment of the superior court, enter judgment in favor of the condemnee and against  
23 the condemnor in the amount of such verdict, together with the accrued court costs,  
24 reasonable attorney's fees, and expenses of litigation, including investigation expenses,  
25 expert witness fees, and other expenses which relate to the preparation for trial. ~~which~~  
26 Such judgment shall be immediately credited with the sum of money deposited by the

27 condemnor with the declaration of taking and which shall bear interest as provided in  
28 subsection (c) of this Code section; and, upon the failure or refusal of the condemnor  
29 immediately to deposit such increase in such sum into the registry of the court, as well as  
30 the accrued court costs and expenses provided for in this subsection, it shall be the duty of  
31 said clerk to issue execution therefor.

32 (c) After just and adequate compensation has been ascertained and established by  
33 judgment, the judgment shall include, as part of the just and adequate compensation  
34 awarded, interest from the date of taking to the date of payment pursuant to final judgment  
35 at the rate of 7 percent per annum on the amount awarded by final judgment as the value  
36 of the property as of the date of taking; but interest shall not be allowed on so much thereof  
37 as shall have been paid into the court and was subject to withdrawal by the condemnee  
38 without the requirement of posting a bond as required by Code Section 32-3-15. However,  
39 if the condemnee posted the bond and withdrew the additional deposit made after the  
40 special master's award and is later awarded a sum greater than the original deposit but less  
41 than the special master's award, the condemnee shall not be entitled to interest on this  
42 additional deposit for the time he or she had use of the money; but he or she shall be  
43 entitled to receive the percentage of the reasonable cost of the bond that the sum awarded  
44 over the original deposit bears to the sum of the special master's award over the original  
45 deposit. If the condemnee is later awarded a sum that exceeds the special master's award  
46 and he or she has posted bond and withdrawn the additional deposit, he or she shall not be  
47 entitled to interest on this additional deposit for the time he or she had use of the money,  
48 but he or she shall be entitled to the reasonable cost of the bond.

49 (d) No sum so paid into the court shall be charged with commissions or poundage.

50 (e) In any event, the case shall be transferred, under the conditions set out in this Code  
51 section, to the closed docket. Nothing in this Code section shall be construed as in any way  
52 affecting the title acquired by the condemnor by virtue of the declaration of taking as  
53 provided for in Code Section 32-3-7."

54 **SECTION 2.**

55 All laws and parts of laws in conflict with this Act are repealed.