

the parties may be heard and the verdict of the jury given. [1971 c.741 §15; 2007 c.71 §11]

35.325 Effect of judgment; effect of payment under judgment. Upon the assessment of the compensation by the jury, the court shall give judgment appropriating the property in question to the condemner, conditioned upon the condemner's paying into court the compensation assessed by the jury; and, after the making of such payment, the judgment shall become effective to convey the property, and the right of possession thereof to the condemner if not previously acquired. [1971 c.741 §16]

35.335 Effect of condemner's abandonment of action. (1) If an action is abandoned by the condemner, the court shall enter judgment in favor of the defendant for costs and disbursements in the action and for reasonable attorney fees and reasonable expenses as determined by the court.

(2) Expenses mean costs of appraisals and fees for experts incurred in preparing and conducting the defense to the action.

(3) An action is considered abandoned if, at any time after filing a complaint, the case is dismissed or terminated or the condemner files an election not to take the property. If an election is not filed within 60 days after the verdict, the condemner is considered to have elected to take the property. [1971 c.741 §17]

35.345 [1971 c.741 §18; repealed by 1973 c.617 §1 (35.346 enacted in lieu of 35.345)]

35.346 Offer to purchase required before filing action for condemnation; appraisal; arbitration; when costs and disbursements allowed. (1) At least 40 days before the filing of any action for condemnation of property or any interest in property, the condemner shall make a written offer to the owner or party having an interest to purchase the property or interest, and to pay just compensation therefor and for any compensable damages to remaining property.

(2) The offer shall be accompanied by any written appraisal upon which the condemner relied in establishing the amount of compensation offered. If the condemner determines that the amount of just compensation due is less than \$20,000, the condemner, in lieu of a written appraisal, may provide to the owner or other person having an interest in the property a written explanation of the bases and method by which the condemner arrived at the specific valuation of the property. The amount of just compensation offered shall not be reduced by amendment or otherwise before or during trial except on order of the court entered not less than 60 days prior to trial. An order for reduction of just compensation offered, pleaded by the

condemner in the complaint or deposited with the court for the use and benefit of the owner pending outcome of the condemnation action, may be entered only upon motion of the condemner and a finding by clear and convincing evidence that the appraisal upon which the original offer is based was the result of a mistake of material fact that was not known and could not reasonably have been known at the time of the original appraisal or was based on a mistake of law.

(3) Unless otherwise agreed to by the condemner and the owner, prior to appraising the property the condemner shall provide not less than 15 days' written notice to the owner of the planned appraisal inspection. The property owner and designated representative, if any, shall be invited to accompany the condemner's appraiser on any inspection of the property for appraisal purposes.

(4) The owner has not less than 40 days from the date the owner receives the written offer required by subsection (1) of this section, accompanied by the appraisal or written explanation required by subsection (2) of this section, to accept or reject the offer. If the owner rejects the condemner's offer and obtains a separate appraisal, the owner shall provide the condemner with a copy of the owner's appraisal not less than 60 days prior to trial or arbitration.

(5)(a) Failure to provide the opposing party with a copy of the appropriate appraisal as provided in subsections (2) and (4) of this section shall prohibit the use of the appraisal in arbitration or at trial.

(b) In the event the owner and condemner are unable to reach agreement and proceed to trial or arbitration as provided in subsection (6) of this section, each party to the proceeding shall provide to every other party a copy of every appraisal obtained by the party as part of the condemnation action.

(6)(a) If an action based on the condemnation is filed, the owner may elect to have compensation determined by binding arbitration if the total amount of compensation claimed by any party does not exceed \$20,000. Notice of an election of binding arbitration must be given to the condemner at least 90 days prior to the date on which an arbitration hearing is scheduled under ORS 36.420.

(b) Notwithstanding the amount established under ORS 36.400, if the owner elects to proceed with binding arbitration, the arbitration shall be conducted according to the mandatory arbitration program established under ORS 36.400 to 36.425. Notwithstanding ORS 36.425, no party may request a trial de novo after the filing of the decision and