

**** Bill No. ****

Introduced By *****

By Request of the *****

GREY BILL -- THIS IS NOT AN ACTUAL BILL DRAFT. REFER TO AMENDMENT
HB029301.asn

A Bill for an Act entitled: "An Act requiring that interest be included on awards of necessary expenses for litigation in condemnation proceedings; amending sections 70-30-305, and 70-30-306, MCA; and providing an immediate effective date and an applicability date."

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

Section 1. Section 70-30-305, MCA, is amended to read:

"70-30-305. Condemnor to make offer upon appeal -- award of expenses of litigation. (1) The condemnor shall, within 30 days after an appeal is perfected from the condemnation commissioner's award or report or not more than 60 days after the waiver of appointment of commissioners, submit to the condemnee a written final offer of judgment for the property sought to be taken, together with the accrued necessary expenses of the condemnee. If at any time prior to 10 days before trial the condemnee serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service of the acceptance, and judgment must be entered. An offer not accepted is considered withdrawn and evidence of the offer is not admissible at the trial except in a proceeding to determine

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costs. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) In the event of litigation and when the condemnee prevails by receiving an award in excess of the final offer of the condemnor, the court shall award necessary expenses of litigation as defined in 70-30-306 to the condemnee."

{ Internal References to 70-30-305:
70-30-306 }

Section 2. Section 70-30-306, MCA, is amended to read:

"70-30-306. Necessary expenses of litigation defined. (1) Necessary expenses of litigation as authorized by 70-30-305 mean reasonable and necessary attorney fees, expert witness fees, exhibit costs, and court costs, and an award of interest on the litigation expenses. Interest on litigation expenses is calculated at the rate of 10% annually from the date the private property owner incurs a litigation expense to the date the private property owner is reimbursed for the principal amount of a litigation expense.

(2) Reasonable and necessary attorney fees are the customary hourly rates for an attorney's services in the county in which the trial is held. Reasonable and necessary attorney fees must be computed on an hourly basis and may not be computed on the basis of any contingent fee contract.

(3) Reasonable and necessary expert witness fees may not exceed the customary rate for the services of a witness of that expertise in the county in which the trial is held."

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{ Internal References to 70-30-306: None. }

NEW SECTION. Section 3. {standard} Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 4. {standard} Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 5. {standard} Applicability. [This act] applies to complaints for condemnation filed on or after [the effective date of this act].

- END -

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