

## Deposit and Appraisal

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## Deposit and Appraisal

Reference Number: MTAS-1271

### ***Deposit and Appraisal (Jury of View Procedure)***

The condemner using the jury of view procedure must deposit with the clerk of the court at the time the petition is filed the amount determined by its appraisal as the amount the property owner is entitled to for the property being acquired. T.C.A. § 29-17-801. The appraisal must value the property considering its highest and best use, its use at the time of the taking, and any other uses to which the property is legally adaptable at the time of the taking. The appraiser must be a Member of the Appraisal Institute (MAI) or an otherwise licensed and qualified appraiser. T.C.A. § 29-17-1004. The statute requires interest to be paid only on the amount of an award exceeding the deposit at the rate of two percentage points (2%) greater than the prime loan rate established, as of the date of the taking, by the federal reserve system of the United States. T.C.A. § 29-17-913. Thus, the statute provides the condemner with a mechanism to avoid the payment of interest on the amount deposited. <sup>[21]</sup>

The condemner should make a good faith estimate of the damages and expenses the property owner will likely incur when it determines the amount to deposit. <sup>[22]</sup> The amount of the deposit should be specified in the condemnation petition. The amount of the deposit is not relevant to the trial, <sup>[23]</sup> and the condemner can offer proof that the property is of lesser value. <sup>[24]</sup>

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#### **Notes:**

[21] *Clinton Livestock Auction Co. v. City of Knoxville*, 52 Tenn. App. 614, 376 S.W.2d 743 (1963).

[22] *State ex rel. Smith v. Overstreet*, 533 S.W.2d 283 (1976).

[23] *Smith County v. Eatherly*, 820 S.W.2d 366 (Tenn. Ct. App. 1991).

[24] *Kennedy v. City of Chattanooga*, 56 Tenn. App. 198, 405 S.W.2d 653 (1966); *Clinton Livestock Auction Co. v. City of Knoxville*, supra.

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