

**68-107. Separate certificates of damages assessed; appeal from award; benefit district assessment in counties between 30,000 and 90,000; notice and hearing; appeal.** It shall be the duty of the commissioners or viewers, at the same time that they make their certificate of the view, if favorable, to make also a separate certificate, in writing stating the amount of damage, if any, by them assessed, and to whom, and submit therewith the written application upon which the assessments have been made.

Any person feeling aggrieved by the award of damages made by the board of county commissioners may appeal from the decisions of said board of county commissioners to the district court pursuant to K.S.A. 60-2101. In all counties having a population of not less than thirty thousand (30,000) and not more than ninety thousand (90,000) inhabitants, if the commissioners or viewers shall find that damages are sustained by owners of the land through which such road is located or opened, and if they find that certain special benefits are derived by the land in the vicinity of the road as well as by the public or the county at large, then they shall fix the limits of the benefit district embracing such real estate as they find to be specially benefited and assess a part of the damages allowed against such benefit district. Such certificate of commissioners or viewers shall contain the correct description of each piece or parcel of private property taken, if any, and the value thereof, and of each piece of property damaged, and the amount of damages thereto for which compensation is to be paid as ascertained by the viewers or commissioners as above provided. Such benefit district shall extend back not less than one hundred feet and not more than twelve hundred feet from either side of the proposed road. If the land on either side of said proposed road be platted into lots or blocks, then the benefit district as to such platted land shall not extend more than one-half (1/2) block with a maximum distance of three hundred (300) feet on the side or sides of the road where such land is so platted. The commissioners or viewers shall proceed to assess benefits equal to the amount of damages in the following manner:

(1) Such an amount as they find shall be paid by the county.

(2) The remainder of the damages shall be assessed against the land in the benefit district as established, in the manner provided by this section in such amounts and in such proportions against the various tracts of land exclusive of improvements as they find such tracts of lands are benefited by the opening or location of such road. It shall be the duty of the commissioners or viewers at the same time that they make their certificate of review, if favorable, to make also a separate certificate in writing stating the amount of the damages, if any, by them assessed and to whom, and submit therewith the written application upon which the assessments have been made and at the same time submit a certificate showing the manner in which the damages are to be paid by the levying of benefits against the various tracts of land within the benefit district, which has been by them established in connection with and as a part of such proceedings and the manner of payment of such benefits.

In case a part of a tract of land is taken from which damages are allowed and benefits assessed against the remaining portion of such tract, then such part of the damages as may be necessary shall be applied to pay off and have discharged of record any taxes or mortgages on such condemned land and the owner of said land may have the remainder of the damages, if any, offset against the benefits assessed against such owner's remaining land in the benefit district, or so much thereof as may be required to pay such benefits in full. Benefits assessed may be paid in full without interest within thirty (30) days from date of final determination of the amount thereof. If not paid within such period of time, then they may be paid in the same manner as are general taxes, except that they shall be due in equal amounts over not to exceed five (5) years and the unpaid portions thereof shall bear interest at not to exceed six percent per annum, payable annually, which manner of payment and rate of interest shall be fixed by the board of county commissioners.

The net amount of damage to be paid to acquire such land so condemned shall be advanced by the county from its general fund and it shall thereafter receive and collect benefits in the manner provided for above and place the same with interest thereon to the credit of its general fund. The county commissioners shall thereupon set a day for a hearing in connection with the establishment of the benefit district and the fixing of damages and benefits, which date of hearing shall be not less than three weeks subsequent to the date of the fixing of such damages and benefits. It shall thereupon be the duty of the county clerk to insert in the official county paper an appropriate notice of the time, place and purpose of such hearing, which notice shall appear in such official county paper at least twice and the date of the last notice shall be at least three days before the date set for the hearing. The county clerk shall also mail to the owner of each tract of land, for which damages have been allowed, or against which benefits have been assessed, a copy of the proceedings, insofar as the fixing of the benefit district and of damages and benefits is concerned, and which notice shall also set forth the time and place and purpose of the hearing. This notice shall be mailed at least five days before the date of the hearing to all owners of the land taken or within the benefit district, as shown by the records in the office of the county treasurer, at the last address given at the time of the payment of the taxes. Failure to receive said notice shall not affect the validity of any of these proceedings. Copies of said notice with an affidavit or affidavits of service attached shall be filed in the county clerk's office before the date of the final hearing. Upon the date provided for above there shall be a final hearing before the county commissioners or viewers, at which time said findings contained in said certificate of view shall be considered and a final order entered in the record of the county commissioners, which may amend, modify, approve or disapprove the findings contained in the certificate of the commissioners or viewers.

Any person feeling aggrieved by the orders made by the board of county commissioners or viewers, may appeal from the decision of said board of county commissioners or viewers to the district court pursuant to K.S.A. 60-2101. If no appeal to the district court is taken within the time prescribed by K.S.A. 60-2101, the assessment shall become final.

**History:** L. 1911, ch. 248, § 7; R.S. 1923, 68-107; L. 1933, ch. 234, § 1; L. 1941, ch. 307, § 1; L. 1945, ch. 266, § 1; L. 1951, ch. 374, § 2; L. 1977, ch. 105, § 21; July 1.