

**Assembly Bill No. 1463**

**CHAPTER 192**

An act to amend Section 1268.610 of the Code of Civil Procedure, relating to litigation expenses.

[Approved by Governor August 12, 2001. Filed with Secretary of State August 13, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1463, Longville. Litigation expenses.

Existing law requires a court in an eminent domain action to award the defendant his or her litigation expenses whenever the proceeding is wholly or partly dismissed or when the final judgment is that the plaintiff cannot acquire the property sought.

This bill would specify that where the plaintiff files a notice of abandonment as to a particular defendant, or a request for dismissal of a particular defendant, and the court determines that the defendant did not own or have any interest in the property at the time the action commenced, the court is required to award that defendant only those litigation expenses incurred up to the time of the filing of the notice of abandonment or request for dismissal.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1268.610 of the Code of Civil Procedure is amended to read:

1268.610. (a) Subject to subdivisions (b) and (c), the court shall award the defendant his or her litigation expenses whenever:

(1) The proceeding is wholly or partly dismissed for any reason.

(2) Final judgment in the proceeding is that the plaintiff cannot acquire property it sought to acquire in the proceeding.

(b) Where there is a partial dismissal or a final judgment that the plaintiff cannot acquire a portion of the property originally sought to be acquired, or a dismissal of one or more plaintiffs pursuant to Section 1260.020, the court shall award the defendant only those litigation expenses, or portion thereof, that would not have been incurred had the property sought to be acquired following the dismissal or judgment been the property originally sought to be acquired.

(c) If the plaintiff files a notice of abandonment as to a particular defendant, or a request for dismissal of a particular defendant, and the court determines that the defendant did not own or have any interest in



the property that the plaintiff sought to acquire in the proceeding, the court shall award that defendant only those litigation expenses incurred up to the time of filing the notice of abandonment or request for dismissal.

(d) Litigation expenses under this section shall be claimed in and by a cost bill to be prepared, served, filed, and taxed as in a civil action. If the proceeding is dismissed upon motion of the plaintiff, the cost bill shall be filed within 30 days after notice of entry of judgment.

