

§6512. Proceedings to correct defect in taking by eminent domain

When a taking or attempted taking by eminent domain has been adjudged defective either from formal errors in proceedings or substantial error, judgment of ouster or writ of possession shall be stayed as follows. [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Formal errors. If the error is a formal error in proceedings, the judgment or writ shall be stayed until the utility exercising the right of eminent domain has an opportunity to retake pursuant to the act conferring the right.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Substantial error. Failure to provide, in an act expressly conferring the right of eminent domain, for an act necessary to carry out the taking is a substantial error and the plaintiff shall be given judgment of title. If the error is substantial, the judgment of ouster or writ of possession shall be stayed until remedial legislation is passed at the session of the Legislature following the rendition of judgment and a new taking had pursuant to the amended Act.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. New taking; civil action not stayed. The new taking shall be had within 90 days from the rendition of the judgment when the error is merely formal and within 6 months from the adjournment of the Legislature following the rendition of judgment when the error is substantial. Nothing in this section precludes or stays a civil action for damages, and the owner of the land may maintain a civil action for damages as if in possession.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

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