

court, the petitioner may at once, without waiting for the determination of such motion for a new trial, or in arrest of judgment, take possession of the property or estate or interest therein of such defendant or defendants so filing a motion for a new trial or in arrest of judgment. If said motion for a new trial, or in arrest of judgment, be granted and a new trial results, said petitioner shall pay to the defendant or defendants the additional costs and any further amount finally awarded in such case; if said motion for a new trial, or in arrest of judgment be denied, and no appeal be taken as provided for in Section 12 of this Article, title to said property shall then vest in said petitioner; and if any appeal is taken under the provision of this Article, any payment of the compensation, damages and costs made in accordance with the provisions of this Section shall constitute compliance with the provisions of Section 17 of this Article authorizing such payment to be made in cases of appeal. Said State Roads Commission shall not be required to file any bond in case of an appeal, as required of petitioners by said Section 17, but if the judgment of the lower court is reversed by the Court of Appeals, on the ground that said petitioner did not have the right to condemn the property for which condemnation proceedings were brought, then said petitioner shall at once abandon and surrender possession of said property or estate of such defendant or defendants, and pay to such defendant or defendants prevailing upon such appeal for all damages which have been occasioned to such defendant or defendants by the petitioner in taking possession and using the said property before the final determination of said appeal, said damages to be assessed by the lower court upon a petition filed in said cause by the defendant or defendants, with the right of either party to a jury trial, and to be deducted from the money heretofore deposited in said court, the balance of said money so deposited, after payment of damages as aforesaid, to be returned to said petitioner, and if the damages so assessed to the defendant or defendants shall exceed the amount of money deposited, the court shall pass an order for the payment of said excess by the State Roads Commission to the defendant or defendants, said payment to be paid out of any available funds of said State Roads Commission, and either party shall have the right of appeal to the Court of Appeals from such award of damages. If said judgment is reversed on appeal and a new trial awarded, said petitioner may continue in possession of said property until the case is finally determined, and if finally determined in favor of said petitioner, title to said property shall thereupon vest in said petitioner, subject to the payment of any further award that may be made and confirmed by said final adjudication.