

AWARDED TO COUNSEL FOR THE DEFENDANT AND CHARGED AGAINST THE PLAINTIFF TOGETHER WITH THE OTHER COSTS OF THE CASE.

(C) COSTS.

COSTS IN THE COURT OF APPEALS SHALL BE PAID AS DIRECTED BY THE COURT OF APPEALS.

(D) POSSESSION OF PROPERTY PENDING APPEAL.

(1) IF THE PLAINTIFF DESIRES POSSESSION PENDING APPEAL, IT MAY MAKE PAYMENT OF THE AWARD PURSUANT TO SUBTITLE U OF THE MARYLAND RULES. IN ADDITION, THE PLAINTIFF SHALL FILE WITH THE CLERK OF THE COURT A BOND TO THE STATE FOR THE PENALTY THE COURT PRESCRIBES.

(2) THE BOND SHALL BE CONDITIONED THAT IF THE JUDGMENT IS REVERSED, THE PLAINTIFF SHALL PAY TO THE DEFENDANT APPEALING, ALL DAMAGES THE PLAINTIFF CAUSED THE DEFENDANT BY TAKING POSSESSION AND USING THE PROPERTY BEFORE THE FINAL DETERMINATION OF THE APPEAL. THE BOND SHALL BE EXECUTED BY THE PLAINTIFF TOGETHER WITH ANOTHER SURETY APPROVED BY THE COURT.

(3) ON THE PAYMENT AND FILING OF THE BOND, THE PLAINTIFF IMMEDIATELY MAY TAKE POSSESSION OF THE PROPERTY OF THE DEFENDANT APPEALING.

(4) EXCEPT AS PROVIDED IN PARAGRAPH (5), IF THE JUDGMENT IS AFFIRMED BY THE COURT OF APPEALS, THE BOND IS DISCHARGED. IF THE JUDGMENT IS REVERSED BY THE COURT OF APPEALS ON THE RIGHT OF THE PLAINTIFF TO CONDEMN, THE PLAINTIFF IMMEDIATELY SHALL SURRENDER POSSESSION OF THE PROPERTY OF THE DEFENDANT AND THE SURETY SHALL BE LIABLE TO THE DEFENDANT FOR ALL DAMAGES WHICH HAVE BEEN OCCASIONED TO THE DEFENDANT BY THE PLAINTIFF IN TAKING POSSESSION AND USING THE PROPERTY BEFORE FINAL DETERMINATION OF THE APPEAL.

(5) IF THE PLAINTIFF IS THE STATE, OR ANY OF ITS SUBDIVISIONS OF INSTRUMENTALITIES, NO BOND IS REQUIRED.

REVISOR'S NOTE: This section presently appears as Art. 21, §12-108 of the Code. In subsection (d), the reference to "estate or interest therein" of the defendant is proposed for deletion as unnecessary in light of the definition of "property" in §1-101(k).

In subsection (d) (4), new language is added to indicate that this provision is subject to the exceptions established in subsection (d) (5).