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SENATE BILL NO. 1158

Offered January 8, 2025

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A BILL to amend and reenact §§ 8.01-187, 15.2-1906, 25.1-204, 25.1-234, 25.1-244, 25.1-245.1, 25.1-307, 25.1-309, 25.1-313, 25.1-315, 25.1-318, 33.2-1020, 33.2-1022, 33.2-1023, 33.2-1025, 33.2-1026, and 33.2-1029.1 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 25.1-245.2, and to repeal § 25.1-205.1 of the Code of Virginia, relating to eminent domain; condemnation proceedings.

Patron—Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-187, 15.2-1906, 25.1-204, 25.1-234, 25.1-244, 25.1-245.1, 25.1-307, 25.1-309, 25.1-313, 25.1-315, 25.1-318, 33.2-1020, 33.2-1022, 33.2-1023, 33.2-1025, 33.2-1026, and 33.2-1029.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 25.1-245.2 as follows:

§ 8.01-187. Commissioners, condemnation jurors, or court to determine compensation for property taken or damaged.

Whenever it is determined in a declaratory judgment proceeding that a person's property has been taken or damaged within the meaning of Article I, Section 11 of the Constitution of Virginia and compensation has not been paid or any action taken to determine the compensation within 60 days following the entry of such judgment order or decree, the court which entered the order or decree may, upon motion of such person after reasonable notice to the adverse party, enter a further order appointing commissioners or, condemnation jurors, or the court to determine the just compensation. The appointment of commissioners or, condemnation jurors, or the court to decide the issue of just compensation and all proceedings thereafter shall be governed by the procedure prescribed for the condemning authority. Notwithstanding the provisions of § 25.1-100, the date of valuation in actions pursuant to this section shall be the date determined by the court to be the date the property was taken or damaged.

§ 15.2-1906. Condemnation of existing water or sewage disposal systems.

Condemnation of existing water or sewage disposal systems shall be governed by the provisions of Chapter 19.1 (§ 15.2-1908 et seq.) of this title so far as applicable. The provisions of § 25.1-102 shall not apply in the case of condemnation of an existing water or sewage disposal system in its entirety. The circuit court for the city or county wherein the property proposed to be condemned, or any part thereof, is located, shall have jurisdiction of the condemnation proceedings. It shall not be necessary to file with the petition for the condemnation of an existing water or sewage system, in its entirety, a minute inventory and description of the property sought to be condemned, provided the property is described therein generally and with reasonable particularity and in such manner as to disclose the intention of the petitioner that such existing water or sewage system be condemned in its entirety. The court having jurisdiction of the condemnation proceedings shall, as the occasion arises and prior to the filing of the report of the commissioners appointed to determine a body determining just compensation for the property sought to be condemned in its entirety, take such steps as may be necessary and proper to cause to be included in an inventory of the property sought to be condemned full descriptions of any and all such property whenever the exigencies of the case or the ends of justice will be promoted thereby. Such inventory shall be made a part of the record in the proceedings and referred to the commissioners body determining just compensation.

§ 25.1-204. Effort to purchase required; prerequisite to effort to purchase or filing certificate.

A. A condemnor shall not institute proceedings to condemn property until a bona fide but ineffectual effort to purchase from the owner the property sought to be condemned has been made. However, such effort shall not be required if the consent cannot be obtained because one or more of the owners (i) is a person under a disability or is otherwise unable to convey legal title to such property, (ii) is unknown, or (iii) cannot with reasonable diligence be found within this Commonwealth.

B. Such bona fide effort shall include delivery of, or attempt to deliver, a written offer to acquire accompanied by a written statement to the owner that explains the factual basis for the condemnor's offer. The written statement shall include a description of the public use for which it is necessary to acquire the owner's property and shall contain a certification that the acquisition has been reviewed by the condemnor for purposes of complying with § 1-219.1. The written offer shall be made upon the state agency's letterhead and shall be signed by an authorized employee of such state agency.

C. If the condemnor obtains an appraisal of the property pursuant to the provisions of § 25.1-417, such

59 written statement shall include a complete copy of the appraisal of the property upon which such offer is  
 60 based. If the condemnor obtains more than one appraisal, such written statement shall include a copy of all  
 61 appraisals obtained prior to making an offer to acquire or initiating negotiations for the real property.

62 D. Notwithstanding any provision of law to the contrary, a condemnor, prior to making an offer to acquire  
 63 a fee simple interest in property by purchase or filing a certificate of take or certificate of deposit pursuant  
 64 to Chapter 3 (§ 25.1-300 et seq.) or § 33.2-1019, shall (i) conduct or cause to be conducted an examination of  
 65 title to the property in order to ascertain the identity of each owner of such property and to determine the  
 66 nature and extent of such owner's interests in the property, which examination of title shall be for at least 60  
 67 years; (ii) provide to such owner or owners a copy of the report showing the examination of title; and (iii)  
 68 provide to such owner or owners a copy of all recorded instruments within the 60-year title history of such  
 69 property, including all deeds of trust, releases, liens, deeds, or other instruments identified in the report, *but*  
 70 *shall exclude all released deeds of trust, released judgments, and the releases therefor.*

71 E. A state agency's acquisition of real property in connection with any programs or projects pursuant to  
 72 this title or Title 33.2 shall be conducted in accordance with the following provisions:

73 1. Before making an offer to acquire or initiating any related negotiations for real property, the state  
 74 agency shall establish an amount which it believes to be just compensation therefor and shall make a prompt  
 75 offer to acquire the property for the full amount so established. In no event shall such amount be less than the  
 76 state agency's approved appraisal of the fair market value of such property, if such an appraisal is required, or  
 77 the current assessed value of such property for real estate tax purposes, unless the property has physically  
 78 changed in a material and substantial way since the current assessment date such that the real estate tax  
 79 assessment no longer represents a fair valuation of the property, when the entire parcel for which the  
 80 assessment is made is to be acquired, whichever is greater. Any decrease or increase in the fair market value  
 81 of real property prior to the date of valuation caused by the public improvement for which such property is  
 82 acquired, or by the likelihood that the property would be acquired for such improvement, other than that due  
 83 to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the  
 84 compensation for the property. The state agency concerned shall provide the owner of real property to be  
 85 acquired with a written statement of, and summary of the basis for, the amount it established as just  
 86 compensation, and, if an appraisal is required or obtained, such written statement and summary shall include  
 87 a complete copy of all appraisals of the real property to be acquired that the state agency obtained prior to  
 88 making an offer to acquire or initiating negotiations for the real property. The state agency shall provide its  
 89 written statement of the amount it established as just compensation on its letterhead, which shall be signed by  
 90 an authorized employee of such state agency. Where appropriate, the just compensation for the real property  
 91 acquired and for damages to remaining real property shall be separately stated.

92 2. No owner shall be required to surrender possession of real property before the state agency pays the  
 93 agreed purchase price, or deposits with the state court in accordance with applicable law, for the benefit of the  
 94 owner, (i) an amount not less than the state agency's approved appraisal of the fair market value of such  
 95 property, if such an appraisal is required, or the current assessed value of such property for real estate tax  
 96 purposes, unless the property has physically changed in a material and substantial way since the current  
 97 assessment date such that the real estate tax assessment no longer represents a fair valuation of the property,  
 98 when the entire parcel for which the assessment is made is to be acquired, whichever is greater, or (ii) the  
 99 amount of the award of compensation in the condemnation proceeding for such property.

100 F. Nothing in this section shall make evidence of tax assessments admissible as proof of value in an  
 101 eminent domain proceeding.

102 **§ 25.1-234. Participation by certain tenants in proceedings to determine just compensation.**

103 A. Any tenant under a lease with a term of 12 months or longer may participate in the proceedings to  
 104 determine just compensation to the same extent as his landlord or the owner, if, not less than 10 days prior to  
 105 the date for the trial of the issue of just compensation, such tenant shall file his petition for intervention, in the  
 106 manner provided in ~~§ 25.1-224~~ 25.1-218. Such petition for intervention shall include (i) a verified copy of the  
 107 lease under which he is in possession and (ii) an affidavit by the tenant or his duly authorized agent or  
 108 attorney, stating:

109 1. That he claims an interest in the award; and

110 2. That he desires to offer admissible evidence concerning the value of the property being taken or  
 111 damaged.

112 B. For the purposes of this section, the term of a tenant's lease shall include any renewals or extensions for  
 113 which the tenant has an enforceable written option. The term "tenant" shall include the assignee of the  
 114 original tenant, as well as any sublessee of the entire demised premises of the owner for the full unexpired  
 115 term of the sublessor.

116 C. Nothing in this section shall be construed, however, as authorizing such tenant to offer any evidence in  
 117 the proceedings to determine just compensation concerning the value of his leasehold interest in the property  
 118 involved therein or as authorizing the body determining just compensation to make any such determination in  
 119 formulating its report.

120 D. As used in this section, "proceedings to determine just compensation" means proceedings described in

121 §§ 25.1-231, 25.1-232, and 25.1-233.

122 **§ 25.1-244. Interest on award; entry of judgment for award and interest.**

123 A. If the petitioner has exercised pendente lite the right to enter into and take possession of the land or  
 124 other property, in the manner provided by this chapter, upon the payment into court of the sum ascertained in  
 125 the report of just compensation as provided in § 25.1-238, the owner thereof shall receive interest upon the  
 126 difference between (i) the amount of just compensation as finally determined and awarded to such owner and  
 127 (ii) the amount, if any, that such owner received or was entitled to receive from the fund so paid into court.  
 128 Such interest shall be paid for the period from the time of such entry by the petitioner until the time the fund  
 129 paid into court on account of the final award of just compensation to such owner is available for distribution.  
 130 Interest accruing prior to July 1, 1970, shall be paid at the rate of five percent annually; interest accruing  
 131 thereafter and prior to July 1, 1981, shall be paid at the rate of six percent annually; interest accruing  
 132 thereafter and prior to July 1, 2003, shall be paid at the rate of eight percent annually; and interest accruing  
 133 thereafter shall be paid at not less than the judgment rate of interest as set forth in § 8.01-382, *compounded*  
 134 *continuously*. No interest shall be payable upon any amount that was withheld from such owner on account of  
 135 questions involving his right, title, interest or estate in the land or other property taken or damaged.

136 B. If the petitioner has exercised the right pendente lite to enter into and take possession of the land or  
 137 other property to be taken or damaged as provided in § 25.1-224, the owner thereof shall receive, in addition  
 138 to the amount that he is entitled to receive under subsection A, interest at ~~the general account's primary~~  
 139 ~~liquidity portfolio~~ *not less than the judgment rate annually of interest as set forth in § 8.01-382, compounded*  
 140 *continuously* upon the difference between (i) the amount of the award of just compensation as finally  
 141 determined and (ii) the amount previously paid into court as required under § 25.1-224. Such interest shall be  
 142 paid for the period from the time of such entry until payment into court of the sum ascertained in the report of  
 143 just compensation as provided in § 25.1-237.

144 C. No interest shall be allowed during the time any distribution of the fund paid into court was delayed in  
 145 the trial court or upon appeal, or thereafter, occasioned by any exceptions made by such owner that are not  
 146 sustained in whole or in part.

147 D. If the petitioner fails to pay into court any sum necessary for paying the total award that has been  
 148 confirmed finally or the interest to which the owner is entitled under this section for a period of 30 days after  
 149 the time for noting an appeal, the court shall enter judgment therefor against the petitioner, unless the  
 150 proceedings have been dismissed in accordance with the provisions of Article 8 (§ 25.1-248 et seq.) of this  
 151 chapter.

152 E. Interest allowable under the provisions of this section shall be reduced to the extent the fund has  
 153 accrued interest during the pendency of the suit in the account required by § 25.1-224.

154 **§ 25.1-245.1. Costs.**

155 A. Except as otherwise provided in this chapter, all costs of the proceeding in the trial court that are fixed  
 156 by statute shall be taxed against the condemnor.

157 B. The court shall order the condemnor to pay to the owner reasonable costs and fees, not to exceed  
 158 \$7,500, unless the court approves a higher amount, for a survey for the owner.

159 C. If an owner whose property is taken by condemnation under this title or under Title 33.2 is awarded at  
 160 trial, as compensation for the taking of or damage to his real property, an amount that is 25 percent or more  
 161 greater than the amount of the condemnor's initial written offer made pursuant to § 25.1-204, the court may  
 162 order the condemnor to pay to the owner those (i) reasonable costs, other than attorney fees, and (ii)  
 163 reasonable fees and travel costs, including reasonable appraisal and engineering fees incurred by the owner,  
 164 for up to three experts or as many experts as are called by the condemnor, whichever is greater, who testified  
 165 at trial.

166 D. All costs on appeal shall be assessed and assessable in the manner provided by law and the Rules of  
 167 Court as in other civil cases.

168 E. The requirements of this section shall not apply to those condemnation actions initiated by a public  
 169 service company, public service corporation, railroad pursuant to the delegation of the power of eminent  
 170 domain granted in Title 56, or government utility corporation; as defined by § 1-219.1; ~~involving easements~~  
 171 ~~adjudged at in which no property is taken in fee simple and just compensation is determined to be less than~~  
 172 \$10,000.

173 F. This section is to be liberally construed to effect its purpose of ensuring that owners receive the full  
 174 measure of just compensation to which they are constitutionally entitled, without that amount being reduced  
 175 by the costs of asserting their constitutional right to just compensation.

176 **§ 25.1-245.2. Discovery costs in condemnation proceedings.**

177 A. *Except as otherwise provided in this chapter, all costs of the proceeding in the trial court that are fixed*  
 178 *by statute shall be taxed against the condemnor.*

179 B. *When, in any condemnation proceeding, the condemnor initiates discovery, the condemnor shall pay*  
 180 *all reasonable costs of such discovery, including the cost and expense of those experts discoverable pursuant*  
 181 *to Rule 4:1 of the Rules of the Supreme Court of Virginia. For the purposes of this subsection, the condemnor*

182 shall be deemed to have initiated discovery if it uses, or gives notice of the use of, any discovery method  
 183 before the condemnee does, even if the condemnee subsequently engages in discovery. The condemnor shall,  
 184 within 15 business days of the provision of any statement for such costs or invoice by the condemnee, pay  
 185 such costs or invoice.

186 C. For the purposes of this section, the reasonable costs of discovery shall include:

187 1. Transcript or court reporter costs or fees related to the deposition of any party, expert witness, or other  
 188 witness or potential witness;

189 2. Reimbursement of the time and expense related to an expert's preparation for and attendance of a  
 190 deposition;

191 3. Reimbursement of the time and expense related to the travel of any expert, party, or other witness to or  
 192 from a deposition;

193 4. Costs related to the propounding, answering of, or responding to discovery requests by either party,  
 194 including printing, copying, or postage; and

195 5. Attorney fees related to discovery.

196 D. If the condemnor fails to make timely payment of any costs recoverable pursuant to this section, the  
 197 condemnee may seek relief with the court and shall be entitled to reimbursement or payment of any such  
 198 reasonable costs or fees, including reasonable attorney fees for bringing the motion for relief.

199 E. Nothing in this section shall preclude the condemnee from seeking reimbursement or payment of any  
 200 other costs or fees permitted by law or by the Rules of the Supreme Court of Virginia.

201 **§ 25.1-307. Content of certificates; recordation of certificates.**

202 A. A certificate shall set forth the description of the property and rights being taken or damaged, and the  
 203 owner or owners, if known, of such property. A certificate through which easement rights are acquired shall  
 204 fully describe the rights and purposes for which the easement is being acquired; it shall not be sufficient to  
 205 append to such certificate a copy of an easement that would otherwise be entered into voluntarily.

206 B. The certificate shall include a plat, drawing, or plan, in sufficient detail to disclose fairly the nature of  
 207 such work or improvements, including specifications, elevations, and grade changes, if any, so as to enable  
 208 the owner of such property to be reasonably informed of the nature, extent, and effect of such taking.  
 209 Additionally, the construction and operation of such work and improvements shall be attached as an exhibit  
 210 to the certificate. If property from which rights are being acquired is an improved property, the plat,  
 211 drawing, or plan shall include the location of the existing improvements. The certificate shall specify the size  
 212 of the fee or easement area being taken and, if multiple overlapping easements are taken, the sizes of the  
 213 overlapping and non-overlapping areas. The certificate shall also state the public use project for which the  
 214 property is being taken.

215 C. If a temporary construction easement is being acquired, the certificate shall set forth the calendar date  
 216 on which it shall expire if that date is known to the condemnor. If the condemnor certifies that such date is  
 217 not known, at such time the condemnor ascertains the date, the condemnor shall file certification of the  
 218 information as provided by subsection B D and shall simultaneously provide the landowner or the  
 219 landowner's counsel, if any, a copy of such certification.

220 ~~B- D.~~ The authorized condemnor shall record a certificate of take or a certificate of deposit in the clerk's  
 221 office of the court where deeds are recorded. The clerk shall record the certificate in the deed book and index  
 222 it in the names of both (i) the person or persons who owned the land before the recordation of the certificate  
 223 and (ii) the authorized condemnor.

224 **§ 25.1-309. Property situated in two or more localities.**

225 If the property affected by the certificate is situated in two or more localities, the clerk of the court  
 226 wherein the certificate is recorded shall certify a copy of such certificate to the clerk of the court of the  
 227 locality in which any portion of the property lies. The clerk shall record the same in the deed book and index  
 228 it in the manner prescribed in subsection B D of § 25.1-307.

229 **§ 25.1-313. Institution of condemnation proceedings.**

230 The authorized condemnor shall institute condemnation proceedings with respect to property described in  
 231 a certificate ~~within 180 days of~~ *simultaneously with* the recordation of the certificate if ~~(i) the authorized~~  
 232 ~~condemnor and the owner or owners of property taken or damaged by the authorized condemnor are unable~~  
 233 ~~to agree as to the compensation, if any, attributable to such taking or damage or (ii) such agreement cannot be~~  
 234 ~~obtained because the owners or one or more of them are under a disability, are unknown, or cannot with~~  
 235 ~~reasonable diligence be found within the Commonwealth.~~ However, this section shall not require the  
 236 institution of condemnation proceedings if they have been instituted prior to the recordation of such  
 237 certificate.

238 **§ 25.1-315. Awards in greater amounts than deposit; interest.**

239 A. If the amount of an award in a condemnation proceeding is greater than that deposited with the court or  
 240 represented by a certificate of deposit, the excess amount, together with interest accrued on such excess  
 241 amount, shall be paid into court for the person or persons entitled thereto. The clerk shall deposit such funds  
 242 to the credit of the court in an account of a type that bears interest.

243 B. Interest, *compounded continuously*, shall accrue on the excess amount at not less than the judgment

244 rate of interest as set forth in § 8.01-382, computed from the date of such deposit to the date of payment into  
 245 court and be paid into court for the person or persons entitled thereto. However, any interest that accrued  
 246 before July 1, 1970, shall be paid at the rate of five percent, and interest accruing thereafter and prior to July  
 247 1, 1981, shall be paid at the rate of six percent, and any interest accruing thereafter and prior to July 1, 1994,  
 248 shall be paid at the rate of eight percent.

249 **§ 25.1-318. Petition by owner for determination of just compensation.**

250 A. The owner of property that an authorized condemnor has entered and taken possession of, or taken  
 251 defeasible title of, pursuant to the provisions of this chapter may petition the circuit court of the locality in  
 252 which the greater portion of the property lies for the appointment of commissioners or the empanelment of a  
 253 jury to determine just compensation for the property taken and damages done, if any, to such property, as  
 254 provided in Chapter 2 (§ 25.1-200 et seq.) if (i) the owner and the authorized condemnor have not reached an  
 255 agreement as to compensation and damages, if any; and (ii) the authorized condemnor:

256 1. ~~Has not completed the construction of the contemplated improvements upon the property after a~~  
 257 ~~reasonable time for such construction has elapsed; or~~

258 2. ~~Has not instituted condemnation proceedings within:~~

259 a. ~~Sixty days after completion of the construction of the contemplated improvements upon the property;~~

260 b. ~~One hundred eighty days after the authorized condemnor has entered upon and taken possession of the~~  
 261 ~~property, regardless of whether the construction of the contemplated improvements has been completed; or~~

262 c. ~~One hundred eighty days after the recordation of a certificate.~~

263 B. A copy of such petition shall be served upon the authorized condemnor at least 10 days before it is  
 264 filed in the court. The authorized condemnor shall file an answer thereto within five days after the filing of  
 265 the petition. ~~If the court finds that the conditions prerequisite for such appointment as provided in subsection~~  
 266 ~~A are satisfied, the~~ The court shall appoint commissioners or empanel a jury, as requested in the owner's  
 267 petition, to ascertain the amount of compensation to be paid for the property taken and damages done, if any.  
 268 The proceedings shall thereafter be governed by the procedure prescribed by Chapter 2 (§ 25.1-200 et seq.)  
 269 insofar as the same may be applicable, except that the owner shall have the burden of proceeding with the  
 270 evidence as to just compensation. The authorized condemnor shall reimburse the owner for his fees and costs  
 271 ~~charged by a lienholder, including filing fees and attorney fees, incurred in filing the owner's petition.~~

272 **§ 33.2-1020. Payment of certificates of deposit; recordation of certain certificates; notice to owner.**

273 A. A certificate of deposit shall be deemed and held for the purpose of this article to be payment into the  
 274 custody of such court. Payment against any certificate of deposit so issued and countersigned, when ordered  
 275 by the court named therein, shall be paid by the State Treasurer on warrants of the Comptroller, issued on  
 276 vouchers signed by the Commissioner of Highways.

277 B. A duplicate of each certificate of deposit so issued and countersigned shall be kept as a record in the  
 278 office of the Commissioner of Highways and a copy thereof shall be filed with the State Treasurer.

279 C. The Commissioner of Highways shall ~~give notice~~, between 30 and 45 days prior to the date on which  
 280 any certificate will be filed or recorded pursuant to this chapter, *give notice* to the owner or tenant, if known,  
 281 of the freehold by certified or registered mail that such certificate will be filed or recorded *with respect to*  
 282 *such person's property. Such notice shall contain the following language, as appropriate:*

283 1. *"Within 30 to 45 days of the date of this notice, a certificate of take shall be recorded in the land*  
 284 *records of the circuit court"; or*

285 2. *"Within 30 to 45 days of the date of this notice, a certificate of deposit shall be recorded in the land*  
 286 *records of the circuit court."*

287 *Such notice shall also state that upon recordation of the certificate, the defeasible title to the property*  
 288 *shall transfer to the Commissioner of Highways and that the owner has the right to petition the court for*  
 289 *distribution of the funds represented by the certificate, subject to any preexisting liens or other encumbrances*  
 290 *upon the property. Additionally, within four business days of the filing or recording of a certificate, the*  
 291 *Commissioner of Highways shall give notice of such filing or recording to the owner or tenant, if known, of*  
 292 *the freehold by providing a copy of such certificate by certified or registered mail.*

293 **§ 33.2-1022. Certificates to describe land and list owner.**

294 A. The certificate shall set forth the description of the land or interest therein being taken or damaged and,  
 295 if known, the owner *of such property.*

296 B. *The certificate shall include a plat, drawing, or plan, in sufficient detail to disclose fairly the nature of*  
 297 *such work or improvements, including specifications, elevations, and grade changes, if any, so as to enable*  
 298 *the owner of such property to be reasonably informed of the nature, extent, and effect of such taking.*  
 299 *Additionally, the construction and operation of such work and improvements shall be attached as an exhibit*  
 300 *to the certificate. If property from which rights are being acquired is an improved property, the plat,*  
 301 *drawing, or plan shall include the location of the existing improvements. The certificate shall specify the size*  
 302 *of the fee or easement area being taken and, if multiple overlapping easements are taken, the sizes of the*  
 303 *overlapping and non-overlapping areas.*

304 C. If a temporary construction easement is being acquired, the certificate shall set forth the calendar date

305 on which it shall expire, if such date is known ~~or can be reasonably estimated, or, if certified to the~~  
 306 ~~condemnor. If the condemnor certifies~~ that such date is not known, at such time the date is ascertained, the  
 307 ~~Commissioner of Highways condemnor~~ shall file certification of the information as provided by subsection B  
 308 D of § 25.1-307 and shall simultaneously provide the landowner or the landowner's counsel, if any, a copy of  
 309 such certification.

310 *D. The authorized condemnor shall record a certificate of take or a certificate of deposit in the clerk's*  
 311 *office of the court where deeds are recorded. The clerk shall record such certificate in the deed book and*  
 312 *index it in the names of both (i) the person who owned the land before the recordation of the certificate and*  
 313 *(ii) the authorized condemnor.*

314 **§ 33.2-1023. Proceedings for distribution of funds; effect of acceptance of payments; evidence as to**  
 315 **amount of deposit or certificate.**

316 A. Any person or persons shown by a certificate to be entitled thereto may petition the court for the  
 317 distribution of all or any part of the funds deposited with the court pursuant to subdivision A 1 of § 33.2-1019  
 318 or represented by a certificate of deposit filed pursuant to subdivision A 2 of § 33.2-1019. Any costs of filing  
 319 such petition or otherwise withdrawing the funds shall be taxed against the Commissioner of Highways.

320 B. A copy of such petition shall be served on the Commissioner of Highways, his deputy, or any attorney  
 321 authorized to accept service with a notice, returnable to the court or judge not less than 21 days after such  
 322 service, to show cause, if any, why such amount should not be distributed in accordance with the prayers of  
 323 the petition.

324 C. If the Commissioner of Highways does not, on or before the return day of the petition, show such  
 325 cause, and if the record in the proceeding does not disclose any denial or dispute with respect thereto, the  
 326 court shall enter an order directing the distribution of such amount in accordance with the prayers of the  
 327 petition. However, in the case of a nonresident petitioner the court may require a bond before ordering the  
 328 distribution.

329 D. If funds have been deposited with the court pursuant to subdivision A 1 of § 33.2-1019, any interest  
 330 that has accrued on the funds shall be payable to the person or persons entitled to receive such funds.

331 E. If funds are not then on deposit with the court but are represented by a certificate of deposit filed  
 332 pursuant to subdivision A 2 of § 33.2-1019, a certified copy of such order shall forthwith be sent to the  
 333 Commissioner of Highways by the clerk. It shall be the duty of the Commissioner of Highways to deposit  
 334 such funds with the court within 21 days of the date of such order.

335 F. Interest, *compounded continuously*, shall be payable on funds represented by a certificate of deposit  
 336 from the date of filing of the certificate of deposit until the funds are paid into court at no less than the  
 337 judgment rate of interest as set forth in § 8.01-382. However, interest shall not accrue if an injunction is filed  
 338 against the Department that enjoins the taking of the property described in the certificate.

339 G. If the Commissioner of Highways shows such cause, or if the record in the proceeding discloses any  
 340 denial or dispute as to the persons entitled to such distribution or to any interest or share therein, the court  
 341 shall direct such proceedings as are provided by § 25.1-240 for the distribution of awards.

342 H. However, the acceptance of such payment shall not limit the amount to be allowed by a commissioner  
 343 in a condemnation proceeding, nor limit the rights of any party or parties to the proceeding to appeal from  
 344 any decision therein; nor shall any party to such proceeding be entitled to introduce evidence of any amount  
 345 deposited with the court or represented by a certificate, nor of any amount that has been accepted by any  
 346 party entitled thereto pursuant to this section.

347 I. All funds due and owing pursuant to this section shall be payable promptly to the owner or, if the owner  
 348 consents, to the owner's attorney. Nothing in this section shall be construed to alter the priority of liens or any  
 349 obligation to satisfy or release any outstanding liens on the property or the funds.

350 **§ 33.2-1025. When condemnation proceedings instituted; payment of compensation or damages;**  
 351 **order confirming award; recording.**

352 ~~Within 180 days after~~ *Simultaneously with* the recordation of such certificate, ~~if the Commissioner of~~  
 353 ~~Highways and the owner of such lands or interest therein taken or damaged by the Commissioner of~~  
 354 ~~Highways are unable to agree as to the compensation or damages, if any, caused thereby, or such consent~~  
 355 ~~cannot be obtained due to the incapacity of the owner, or because such owner is unknown or cannot with~~  
 356 ~~reasonable diligence be found within the Commonwealth,~~ the Commissioner of Highways shall institute  
 357 condemnation proceedings, as provided in this article, unless said proceedings shall have been instituted prior  
 358 to the recordation of such certificate. The amount of such compensation and damages, if any, awarded to the  
 359 owner in such proceedings shall be paid out of the appropriations to the Department. The final order  
 360 confirming the award of the Commissioner of Highways shall confirm absolute and indefeasible title to the  
 361 land, or interest therein sought, in the Commonwealth and shall be recorded in the current deed book.

362 **§ 33.2-1026. Awards in greater or lesser amounts than deposit; interest.**

363 A. If the amount of an award in a condemnation proceeding is greater than that deposited with the court or  
 364 represented by a certificate of deposit, the excess amount, together with interest accrued on such excess  
 365 amount, shall be paid into court for the person entitled thereto. The clerk shall deposit such funds to the credit

366 of the court in an account of a type that bears interest.

367 B. Interest, *compounded continuously*, shall accrue on the excess amount at not less than the judgment  
 368 rate of interest as set forth in § 8.01-382, computed from the date of such deposit to the date of payment into  
 369 court, and shall be paid into court for the person or persons entitled thereto. However, any (i) interest  
 370 accruing after June 30, 1970, and prior to July 1, 1981, shall be paid at the rate of six percent; (ii) interest  
 371 accruing after June 30, 1981, and prior to July 1, 1994, shall be paid at the rate of eight percent; and (iii)  
 372 interest accruing after June 30, 1994, and prior to July 1, 2003, shall be paid at the general account composite  
 373 rate, compiled by the Department of the Treasury for the month in which the award is rendered.

374 C. If the amount of an award in a condemnation proceeding is less than that deposited with the court or  
 375 represented by a certificate of deposit, and the person or persons entitled thereto have received a distribution  
 376 of the funds pursuant to § 33.2-1023, the Commissioner of Highways shall recover (i) the amount of such  
 377 excess and (ii) interest on such excess at the rate of interest established pursuant to § 6621(a)(2) of the  
 378 Internal Revenue Code of 1954, as amended. If any person has been paid a greater sum than that to which he  
 379 is entitled as determined by the award, judgment shall be entered for the Commissioner of Highways against  
 380 such person for the amount of such excess and interest. However, the Commissioner of Highways shall not be  
 381 entitled to recover the amount of such excess and interest in the event the Commissioner of Highways  
 382 acquired, by virtue of the certificate, an entire parcel of land containing a dwelling, multiple-family dwelling,  
 383 or building used for commercial purposes at the time of initiation of negotiations for the acquisition of such  
 384 property.

385 **§ 33.2-1029.1. Petition by owner for determination of just compensation.**

386 A. The owner of property that the Commissioner of Highways has entered and taken possession of, or  
 387 taken defeasible title of, pursuant to the provisions of this chapter may petition the circuit court of the locality  
 388 in which the greater portion of the property lies for the appointment of commissioners or the empanelment of  
 389 a jury to determine just compensation for the property taken and damage done, if any, to such property, as  
 390 provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 if ~~(i) the owner and the Commissioner of Highways~~  
 391 ~~have not reached an agreement as to compensation and damages, if any, and (ii) the Commissioner of~~  
 392 ~~Highways:~~

393 1. ~~Has not completed the construction of the contemplated improvements upon the property after a~~  
 394 ~~reasonable time for such construction has elapsed; or~~

395 2. ~~Has not instituted condemnation proceedings within:~~

396 a. ~~Sixty days after completion of the construction of the contemplated improvements upon the property;~~

397 b. ~~One hundred and eighty days after the Commissioner of Highways has entered upon and taken~~  
 398 ~~possession of the property, regardless of whether the construction of the contemplated improvements has~~  
 399 ~~been completed; or~~

400 e. ~~One hundred and eighty days after the recordation of a certificate.~~

401 B. A copy of such petition shall be served on the Commissioner of Highways at least 10 days before it is  
 402 filed in the court. The Commissioner of Highways shall file an answer within five days after the filing of the  
 403 petition. ~~If the courts finds that the conditions prerequisite for such appointment as provided in subsection A~~  
 404 ~~are satisfied, the~~ The court shall appoint commissioners or empanel a jury, as requested in the owner's  
 405 petition, to ascertain the amount of compensation to be paid for the property taken and damages done, if any.  
 406 The proceedings shall thereafter be governed by the procedures prescribed in Chapter 2 (§ 25.1-200 et seq.)  
 407 of Title 25.1 insofar as they may be applicable, except that the owner shall have the burden of proceeding  
 408 with the evidence as to just compensation. The Commissioner of Highways shall reimburse the owner for his  
 409 fees and costs ~~charged by the lienholder~~, including filing fees and attorney fees, incurred in filing the owner's  
 410 petition.

411 **2. That § 25.1-205.1 of the Code of Virginia is repealed.**

412 **3. That the provisions of this act shall apply only to the taking of or damage to the property that has**  
 413 **occurred on or after July 1, 2025, or a condemnation proceeding that has been filed on or after July 1,**  
 414 **2025, as appropriate.**