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SENATE BILL NO. 1158**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice
on January 22, 2025)

(Patron Prior to Substitute—Senator Obenshain)

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 and to repeal § 25.1-205.1 of the Code of Virginia, relating to eminent domain; condemnation proceedings.*

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

D. Notwithstanding any provision of law to the contrary, a condemnor, prior to making an offer to acquire a ~~fee simple~~ *permanent* interest in property by purchase or filing a certificate of take or certificate of deposit

60 pursuant to Chapter 3 (§ 25.1-300 et seq.) or § 33.2-1019, shall (i) conduct or cause to be conducted an
 61 examination of title to the property in order to ascertain the identity of each owner of such property and to
 62 determine the nature and extent of such owner's interests in the property, which examination of title shall be
 63 for at least 60 years *and shall be documented in a report showing all matters that affect the current*
 64 *ownership, existing liens, encumbrances, and other matters affecting title as of the date of the title report;* (ii)
 65 provide to such owner or owners a copy of the *title report showing the examination of title;* and (iii) provide
 66 to such owner or owners a copy of all recorded instruments ~~within the 60-year title history of such property,~~
 67 ~~including all deeds of trust, releases, liens, deeds, or other instruments~~ identified in the *title report.*

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

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

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

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

99 **§ 25.1-234. Participation by certain tenants in proceedings to determine just compensation.**

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

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

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

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

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

117 D. As used in this section, "proceedings to determine just compensation" means proceedings described in
 118 §§ 25.1-231, 25.1-232, and 25.1-233.

119 **§ 25.1-244. Interest on award; entry of judgment for award and interest.**

120 A. If the petitioner has exercised pendente lite the right to enter into and take possession of the land or

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

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

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

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

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

151 **§ 25.1-245.1. Costs.**

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

154 B. The court shall order the condemnor to pay to the owner reasonable costs and fees, not to exceed
 155 \$7,500, unless the court approves a higher amount, for a survey for the owner.

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

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

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

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

173 **§ 25.1-307. Content of certificates; recordation of certificates.**

174 A. A certificate shall set forth the description of the property *and rights* being taken or damaged, and the
 175 owner or owners, if known, of such property. *A certificate through which easement rights are acquired shall*
 176 *describe the rights and purposes for which the easement is being acquired.*

177 B. *The certificate shall include a plat, drawing, or plan, in sufficient detail to disclose fairly the nature of*
 178 *such work or improvements, including specifications, elevations, and grade changes, if any, so as to enable*
 179 *the owner of such property to be reasonably informed of the nature, extent, and effect of such taking. If*
 180 *property from which rights are being acquired is an improved property, the plat, drawing, or plan shall*
 181 *include the location of the existing structures, curbing, and pavement that are on the property and are within*

182 *approximately 100 feet of the closest areas of the property taken for the public use project. The certificate*
 183 *shall specify the size of the fee or easement area being taken and, if multiple overlapping easements are*
 184 *taken, the sizes of the overlapping and non-overlapping areas. The certificate shall also state the public use*
 185 *project for which the property is being taken.*

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

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

195 **§ 25.1-309. Property situated in two or more localities.**

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

200 **§ 25.1-313. Institution of condemnation proceedings.**

201 The authorized condemnor shall institute condemnation proceedings with respect to property described in
 202 a certificate within ~~480~~ 100 days of the recordation of the certificate if (i) the authorized condemnor and the
 203 owner or owners of property taken or damaged by the authorized condemnor are unable to agree as to the
 204 compensation, if any, attributable to such taking or damage or (ii) such agreement cannot be obtained because
 205 the owners or one or more of them are under a disability, are unknown, or cannot with reasonable diligence
 206 be found within the Commonwealth. However, this section shall not require the institution of condemnation
 207 proceedings if they have been instituted prior to the recordation of such certificate. *The authorized*
 208 *condemnor and the property owner may mutually agree to delay the institution of condemnation proceedings*
 209 *by written agreement between the parties or counsel for the parties.*

210 **§ 25.1-315. Awards in greater amounts than deposit; interest.**

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

215 B. Interest, *compounded daily*, shall accrue on the excess amount at not less than the judgment rate of
 216 interest as set forth in § 8.01-382, computed from the date of such deposit to the date of payment into court
 217 and be paid into court for the person or persons entitled thereto. However, any interest that accrued before
 218 July 1, 1970, shall be paid at the rate of five percent, and interest accruing thereafter and prior to July 1, 1981,
 219 shall be paid at the rate of six percent, and any interest accruing thereafter and prior to July 1, 1994, shall be
 220 paid at the rate of eight percent.

221 **§ 25.1-318. Petition by owner for determination of just compensation.**

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

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

230 2. Has not instituted condemnation proceedings within:

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

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

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

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

243 charged by a lienholder, including filing fees and attorney fees, incurred in filing the owner's petition.

244 **§ 33.2-1020. Payment of certificates of deposit; recordation of certain certificates; notice to owner.**

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

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

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

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

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

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

265 **§ 33.2-1022. Certificates to describe land and list owner.**

266 A. The certificate shall set forth the description of the land or interest therein being taken or damaged and,
267 if known, the owner of such property. A certificate through which easement rights are acquired shall
268 describe the rights and purposes for which the easement is being acquired.

269 B. The certificate shall include a plat, drawing, or plan, in sufficient detail to disclose fairly the nature of
270 such work or improvements, including specifications, elevations, and grade changes, if any, so as to enable
271 the owner of such property to be reasonably informed of the nature, extent, and effect of such taking. If
272 property from which rights are being acquired is an improved property, the plat, drawing, or plan shall
273 include the location of the existing structures, curbing, and pavement that are on the property and are within
274 approximately 100 feet of the closest areas of the property taken for the public use project. The certificate
275 shall specify the size of the fee or easement area being taken and, if multiple overlapping easements are
276 taken, the sizes of the overlapping and non-overlapping areas. The certificate shall also state the public use
277 project for which the property is being taken.

278 C. If a temporary construction easement is being acquired, the certificate shall set forth the calendar date
279 on which it shall expire, if such date is known ~~or can be reasonably estimated, or, if certified to the~~
280 *Commissioner of Highways. If the Commissioner of Highways certifies* that such date is not known, at such
281 time the date is ascertained, the Commissioner of Highways shall file certification of the information as
282 provided by subsection ~~B~~ D of § 25.1-307 and shall simultaneously provide the landowner or the landowner's
283 counsel, if any, a copy of such certification.

284 D. *The Commissioner of Highways shall record a certificate of take or a certificate of deposit in the*
285 *clerk's office of the court where deeds are recorded. The clerk shall record such certificate in the deed book*
286 *and index it in the names of both (i) the person who owned the land before the recordation of the certificate*
287 *and (ii) the Commissioner of Highways.*

288 **§ 33.2-1023. Proceedings for distribution of funds; effect of acceptance of payments; evidence as to**
289 **amount of deposit or certificate.**

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

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

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

303 D. If funds have been deposited with the court pursuant to subdivision A 1 of § 33.2-1019, any interest

304 that has accrued on the funds shall be payable to the person or persons entitled to receive such funds.

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

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

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

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

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

324 **§ 33.2-1025. When condemnation proceedings instituted; payment of compensation or damages;**
 325 **order confirming award; recording.**

326 Within ~~180~~ 100 days after the recordation of such certificate, if the Commissioner of Highways and the
 327 owner of such lands or interest therein taken or damaged by the Commissioner of Highways are unable to
 328 agree as to the compensation or damages, if any, caused thereby, or such consent cannot be obtained due to
 329 the incapacity of the owner, or because such owner is unknown or cannot with reasonable diligence be found
 330 within the Commonwealth, the Commissioner of Highways shall institute condemnation proceedings, as
 331 provided in this article, unless said proceedings shall have been instituted prior to the recordation of such
 332 certificate. The amount of such compensation and damages, if any, awarded to the owner in such proceedings
 333 shall be paid out of the appropriations to the Department. The final order confirming the award of the
 334 Commissioner of Highways shall confirm absolute and indefeasible title to the land, or interest therein ~~sought~~
 335 , in the Commonwealth and shall be recorded in the current deed book. *The Commissioner of Highways and*
 336 *the property owner may mutually agree to delay the institution of condemnation proceedings by written*
 337 *agreement between such parties or counsel for such parties.*

338 **§ 33.2-1026. Awards in greater or lesser amounts than deposit; interest.**

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

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

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

361 **§ 33.2-1029.1. Petition by owner for determination of just compensation.**

362 A. The owner of property that the Commissioner of Highways has entered and taken possession of, or
 363 taken defeasible title of, pursuant to the provisions of this chapter may petition the circuit court of the locality
 364 in which the greater portion of the property lies for the appointment of commissioners or the empanelment of

365 a jury to determine just compensation for the property taken and damage done, if any, to such property, as
366 provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 if (i) the owner and the Commissioner of Highways
367 have not reached an agreement as to compensation and damages, if any, and (ii) the Commissioner of
368 Highways:

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

371 2. Has not instituted condemnation proceedings within:

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

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

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

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

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

388 **3. That the provisions of this act shall apply only to the taking of or damage to the property that has**
389 **occurred on or after July 1, 2025, or a condemnation proceeding that has been filed on or after July 1,**
390 **2025, as appropriate.**

391 **4. That the provisions of § 25.1-204 of the Code of Virginia, as amended by this act, shall apply only to**
392 **offers made to take or damage property that are made on or after January 1, 2026.**