

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 33.2-909 of the Code of Virginia, relating to abandonment of highway;*
 3 *section of the secondary state highway system; local authority.*

4 [S 321]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 33.2-909 of the Code of Virginia is amended and reenacted as follows:**8 **§ 33.2-909. Abandonment of highway, landing, or railroad crossing; procedure.**

9 A. The governing body of any county on its own motion or upon petition of any interested landowner may
 10 cause any section of the secondary state highway system, or any crossing by the highway of the lines of a
 11 railroad company or crossing by the lines of a railroad company of the highway, deemed by it to be no longer
 12 necessary for the uses of the secondary state highway system to be abandoned altogether as a public highway,
 13 a public landing, or a public railroad crossing by complying substantially with the procedure provided in this
 14 section.

15 B. The governing body of the county shall give notice of its intention to abandon any such highway,
 16 landing, or railroad crossing (i) by posting a notice of such intention at least three days before the first day of
 17 a regular term of the circuit court at the front door of the courthouse of the county in which the section of the
 18 highway, landing, or railroad crossing sought to be abandoned as a public highway, public landing, or public
 19 railroad crossing is located or (ii) by posting notice in at least three places on and along the highway, landing,
 20 or railroad crossing sought to be abandoned for at least 30 days and in either case by publishing notice of its
 21 intention in two or more issues of a newspaper having general circulation in the county. In addition, the
 22 governing body of the county shall give notice of its intention to abandon such highway, landing, or railroad
 23 crossing to the Board or the Commissioner of Highways. In any case in which the highway, landing, or
 24 railroad crossing proposed to be abandoned lies in two or more counties, the governing bodies of such
 25 counties shall not abandon such highway, landing, or railroad crossing unless and until all affected governing
 26 bodies agree. The procedure in such cases shall conform mutatis mutandis to the procedure prescribed for the
 27 abandonment of a highway, landing, or railroad crossing located entirely within a county.

28 When the governing body of a county gives notice of intention to abandon a public landing, the governing
 29 body shall also give such notice to the Department of Wildlife Resources.

30 C. If one or more landowners in the county whose property abuts the highway, landing, or railroad
 31 crossing proposed to be abandoned, or if only a section of a highway, landing, or railroad crossing is
 32 proposed to be abandoned, whose property abuts such section, or the Board or the Department of Wildlife
 33 Resources, in the case of a public landing, files a petition with the governing body of the county within 30
 34 days after notice is posted and published as provided in this section, the governing body of the county shall
 35 hold a public hearing on the proposed abandonment and shall give notice of the time and place of the hearing
 36 by publishing such information twice in a newspaper having general circulation in the county, with the first
 37 publication appearing no more than 28 days before and the second publication appearing no less than seven
 38 days before the hearing. The governing body shall also give notice to the Board or, if a public landing is
 39 sought to be abandoned, to the Department of Wildlife Resources.

40 D. If a petition for a public hearing is not filed as provided in this section, or if after a public hearing is
 41 held the governing body of the county is satisfied that no public necessity exists for the continuance of the
 42 section of the secondary highway as a public highway or the railroad crossing as a public railroad crossing or
 43 the landing as a public landing or that the safety and welfare of the public would be served best by
 44 abandoning the section of highway, the landing, or the railroad crossing as a public highway, public landing,
 45 or public railroad crossing, the governing body of the county shall (i) within four months of the 30-day period
 46 during which notice was posted where no petition for a public hearing was filed or (ii) within four months
 47 after the public hearing adopt an ordinance or resolution abandoning the section of highway as a public
 48 highway, or the landing as a public landing, or the railroad crossing as a public railroad crossing, and with
 49 that ordinance or resolution the section of highway shall cease to be a public highway, a public landing, or a
 50 public railroad crossing. If the governing body is not so satisfied, it shall dismiss the application within the
 51 applicable four months provided in this subsection.

52 E. A finding by the governing body of a county that a section of the secondary state highway system is no
 53 longer necessary for the uses of the secondary state highway system may be made if the following conditions
 54 exist:

55 1. ~~The highway is located within a residence district as defined in § 46.2-100;~~

56 2. ~~The residence district section of the secondary state highway system is located within a county having a~~

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57 density of population exceeding 1,000 per square mile;
58 ~~3-~~ 2. Continued operation of the section of highway in question constitutes a threat to the public safety and
59 welfare; and
60 ~~4-~~ 3. Alternate routes for use after abandonment of the highway are readily available.
61 F. In considering the abandonment of any section of highway under the provisions of this section, due
62 consideration shall be given to the historic value, if any, of such highway.
63 G. Any ordinance or resolution of abandonment issued in compliance with this section shall give rise in
64 subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.
65 H. No public land shall be abandoned unless the Board of Wildlife Resources shall by resolution
66 concur in such abandonment.