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HOUSE BILL NO. 421

Offered January 14, 2026

A BILL to amend and reenact § 25.1-230.1 of the Code of Virginia, relating to eminent domain; condemnation of public waterworks systems; determination of lost profits.

Patron—Cole, N.T.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 25.1-230.1 of the Code of Virginia is amended and reenacted as follows:****§ 25.1-230.1. Lost access and lost profits.**

A. For purposes of this section:

"Business" shall have the same meaning as set forth in § 25.1-400.

"Farm operation" shall have the same meaning as set forth in § 25.1-400.

B. The body determining just compensation shall include in its determination of damage to the residue any loss in market value of the remaining property from lost access. The body determining just compensation shall ascertain any reduction in value for lost access, if any, that may accrue to the residue as provided in subsection A of § 25.1-230. The body determining just compensation shall ensure that any compensation awarded for lost access shall not be duplicated in the compensation otherwise awarded to the owner of the property taken or damaged.

C. The body determining just compensation shall include in its determination of just compensation lost profits to the owner of a business or farm operation conducted on the property taken or damaged if the owner or the business or farm operation proves with reasonable certainty the amount of the loss and that the loss is directly and proximately caused by the taking or damaging of the property through the exercise of eminent domain and the following conditions are met:

1. The loss cannot be reasonably prevented by a relocation of the business or farm operation, or by taking steps and adopting procedures that a reasonably prudent person would take and adopt;

2. The loss will not be included in relocation assistance provided pursuant to Chapter 4 (§ 25.1-400 et seq.);

3. Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner of the property taken or damaged; and

4. The loss shall be determined in accordance with generally accepted accounting principles applied on a consistent basis.

D. Any and all liability for lost access shall be established and made a part of the award of just compensation for damage to the residue of the property taken or damaged, and any and all liability for lost profits shall be set forth specifically in the award. In a partial acquisition, in the event that the owner of the property being condemned and the owner of the business or farm operation claiming lost profits are the same, then any enhancement or peculiar benefit shall be offset against both damage to the residue and lost profits.

E. It shall not be a requirement of any bona fide effort to purchase the property pursuant to § 25.1-204 or 33.2-1001 that the petitioner include any liability for lost profits in a written offer to purchase the property.

F. In any proceeding in which the owner of a business or farm operation seeks to recover lost profits, the owner shall provide the condemning authority with all federal income tax returns, if any, relating to the business or farm operation for which the owner seeks lost profits for a period of three years prior to the later of (i) the valuation date or (ii) the date the state agency or its contractor prevents the owner from using the land or any of the owner's other property rights are taken, and for each year thereafter during the pendency of the condemnation proceeding. The condemning authority shall not divulge the information provided pursuant to this subsection except in connection with the condemnation proceeding. Additionally, unless already named in the petition for condemnation, the owner of the business or farm operation may intervene in the proceeding by filing a motion to intervene accompanied by a petition for intervention setting forth the basis for the lost profits claim under this chapter. Proceedings to adjudicate lost profits may, upon motion of the owner of the business or farm operation, be bifurcated from the other proceedings to determine just compensation, but such bifurcation shall not prevent the entry of an order confirming indefeasible title to the land interests acquired by the condemning authority.

G. Nothing in this section is intended to provide for compensation for inverse condemnation claims for lost profits or lost access for temporary interference with or interruption of a business or farm operation where the impact to the property is for a period of fewer than seven days.

H. In any condemnation of a waterworks system or any portion thereof pursuant to Chapter 19.1 (§ 15.2-1908 et seq.) of Title 15.2 or § 15.2-2146 where the owner seeks to recover lost profits in accordance

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59 *with the provisions of this section, the body determining the just compensation shall, in determining the*
60 *amount of any such lost profits, consider the difference between the rates, fees, and charges lawfully in effect*
61 *for water service provided by the (i) condemning locality or authority and (ii) owner on the date of valuation.*
62 *Upon the petition of any party or upon request of the court, the determination of lost profits in a proceeding*
63 *pursuant to this section shall be commensurately reduced to the extent that the body determining just*
64 *compensation and the court find to be just and reasonable.*