

SENATE BILL NO. 301

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator O'Brien)

A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 25.1 a section numbered 25.1-107, relating to eminent domain.

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 1 of Title 25.1 a section numbered 25.1-107 as follows:**

§ 25.1-107. Use of property; conveyance to original owner.

A. If a petitioner files a petition in condemnation to acquire property or an interest therein pursuant to Article 2 (§ 25.1-205 et seq.) of Chapter 2 of this title and acquires title to such property as provided in § 25.1-237, then the petitioner shall use the property for the public use or uses for which the property is taken, as stated in the petition pursuant to subdivision 2 c of § 25.1-206.

B. If the property is not being used, at the end of the 10-year period following the date that title to the property or interest therein became vested in the petitioner as a result of a contested condemnation proceeding, by the petitioner for a public use for which the property was taken, then, if demand is made in writing by the former owner of the property within 90 days after the expiration of the 10-year period, the petitioner shall convey the property to the former owner of the property upon payment to the petitioner of a sum equal to the fair market value of such property as of the end of the 10-year period. If such a demand is not made by the former owner within 90 days after the expiration of the 10-year period, the petitioner shall not be obligated to make such a conveyance.

26 C. As used in this section, "former owner of the property" means (i) if the property  
27 acquired by the petitioner was the fee interest to an entire parcel, the person who held title to  
28 the property immediately prior to its acquisition by the petitioner, or (ii) if the property acquired  
29 by the petitioner was not a fee interest or was not the entirety of a parcel, the person who held  
30 title to the property immediately prior to its acquisition, but if such person is no longer the  
31 owner of the fee interest of the residue of the parcel, then the current owner of the residue.  
32 However, if a parcel acquired has been partially used for the public purpose, this section shall  
33 not apply to the remainder of the parcel.

34 D. Notwithstanding the foregoing, the petitioner shall not be required to convey the  
35 property to the former owner of the property if, within 30 days following the end of such 10-year  
36 period, the petitioner certifies in writing that the petitioner intends to use the property for the  
37 public use or uses for which the property was taken or for another public use for which the  
38 petitioner was authorized to acquire the property. A copy of the certification shall be recorded  
39 in the office of the Clerk of Circuit Court wherein the petition was filed.

40 E. The 10-year period referenced in subsection A shall be extended by the number of  
41 days of delay occasioned by litigation involving the use for which the condemnor was  
42 authorized to acquire the property, or by the failure of the Commonwealth to receive  
43 anticipated federal funds dedicated to such use.

44 F. This section shall not apply to property acquired by the Commonwealth  
45 Transportation Commissioner pursuant to Title 33.1 or any property acquired by a political  
46 subdivision of the Commonwealth for highway purposes.

47 **2. That the provisions of this act shall not apply with respect to any property acquired**  
48 **by a petitioner unless such acquisition is made pursuant to a petition in condemnation**  
49 **that is filed by the petitioner on or after July 1, 2004.**

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