

CODE OF VIRGINIA



Title 25.1 Eminent Domain

Title 25.1 - Eminent Domain

Chapter 1 - GENERAL PROVISIONS

§ 25.1-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

"Body determining just compensation" means a panel of commissioners empaneled pursuant to § [25.1-227.2](#), jury selected pursuant to § [25.1-229](#), or the court if neither a panel of commissioners nor a jury is appointed or empaneled.

"Court" means the court having jurisdiction as provided in § [25.1-201](#).

"Date of valuation" means the time of the lawful taking by the petitioner, or the date of the filing of the petition pursuant to § [25.1-205](#), whichever occurs first.

"Freeholder" means any person owning an interest in land in fee, including a person owning a condominium unit.

"Land" means real estate and all rights and appurtenances thereto, together with the structures and other improvements thereon, and any right, title, interest, estate or claim in or to real estate.

"Locality" or "local government" means a county, city, or town, as the context may require.

"Lost access" means a material impairment of direct access to property, a portion of which has been taken or damaged as set out in subsection B of § [25.1-230.1](#). This definition of the term "lost access" shall not diminish any existing right or remedy, and shall not create any new right or remedy other than to allow the body determining just compensation to consider a change in access in awarding just compensation.

"Lost profits" means a loss of business profits, as defined in § [25.1-230.1](#), that is suffered as a result of a taking of the property on which a business or farm operation is located, subject to adjustment using generally accepted accounting principles consistently applied, from a business or farm operation for a period not to exceed three years from the later of (i) the date of valuation 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. The person claiming lost profits is entitled to compensation whether part of the property or the entire parcel of property is taken. In order to qualify for an award of lost profits, one of the following conditions shall be met: (a) the business is owned by the owner of the property taken, or by a tenant whose leasehold interest grants the tenant exclusive possession of substantially all the property taken, or (b) the farm operation is operated by the owner of the property taken, or by a tenant using

for a farm operation the property taken, to the extent that the loss is determined and proven pursuant to subsection C of § [25.1-230.1](#). This definition of the term "lost profits" shall not create any new right or remedy or diminish any existing right or remedy other than to allow the body determining just compensation to consider lost profits in awarding just compensation if a person asserts a right to lost profits in a claim for compensation.

"Owner" means any person who owns property, provided that the person's ownership of the property is of record in the land records of the clerk's office of the circuit court of the county or city where the property is located. The term "owner" shall not include trustees or beneficiaries under a deed of trust, any person with a security interest in the property, or any person with a judgment or lien against the property. This definition of the term "owner" shall not affect in any way the valuation of property.

"Person" means any individual; firm; cooperative; association; corporation; limited liability company; trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in bankruptcy or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; club, society or other group or combination acting as a unit; the Commonwealth or any department, agency or instrumentality thereof; any city, county, town, or other political subdivision or any department, agency or instrumentality thereof; or any interstate body to which the Commonwealth is a party.

"Petitioner" or "condemnor" means any person who possesses the power to exercise the right of eminent domain and who seeks to exercise such power. The term "petitioner" or "condemnor" includes a state agency.

"Property" means land and personal property, and any right, title, interest, estate or claim in or to such property.

"State agency" means any (i) department, agency or instrumentality of the Commonwealth; (ii) public authority, municipal corporation, local governmental unit or political subdivision of the Commonwealth or any department, agency or instrumentality thereof; (iii) person who has the authority to acquire property by eminent domain under state law; or (iv) two or more of the aforementioned that carry out projects that cause persons to be displaced.

"State institution" means any (i) institution enumerated in § [23.1-1100](#) or (ii) state hospital or state training center operated by the Department of Behavioral Health and Developmental Services.

1962, c. 426, § 25-46.3; 1991, c. 520; 2000, c. [1029](#); 2002, c. [878](#); 2003, c. [940](#); 2006, c. [586](#); 2009, cc. [813](#), [840](#); 2010, c. [835](#); 2011, cc. [117](#), [190](#); 2012, cc. [476](#), [507](#), [699](#), [719](#); 2015, c. [642](#); 2017, c. [314](#); 2018, c. [702](#).

§ 25.1-101. Condemnation by state institutions.

A. Any state institution may acquire by condemnation title to (i) land, (ii) any easement thereover or (iii) any sand, earth, gravel, water or other necessary material for the purpose of opening, constructing, repairing or maintaining a road or for any other authorized public undertaking; however, such

acquisition by condemnation shall only be commenced if the terms of purchase cannot be agreed upon or the owner (a) is unknown, (b) cannot with reasonable diligence be found within this Commonwealth or (c) cannot negotiate an agreement or convey legal title to the property because the owner is a person under a disability.

B. Condemnation proceedings authorized by subsection A shall be conducted under the provisions of Chapter 2 (§ [25.1-200](#) et seq.) of this title insofar as applicable.

Code 1950, § 25-232; 1964, c. 291, § 25-232.01; 1980, c. 559; 1986, c. 117; 2003, c. [940](#).

§ 25.1-102. Condemnation of property of corporations possessing power of eminent domain.

A. Except as provided in §§ [15.2-1906](#) and [15.2-2146](#), no (i) corporation or (ii) electric authority created under the provisions of Chapter 54 (§ [15.2-5400](#) et seq.) of Title 15.2 shall file a petition to take by condemnation proceedings any property belonging to any other corporation possessing the power of eminent domain, unless, after notice to all parties in interest and an opportunity for a hearing, the State Corporation Commission shall certify that a public necessity or that an essential public convenience shall so require, and shall give its permission thereto; and in no event shall one corporation take by condemnation proceedings any property owned by and essential to the purposes of another corporation possessing the power of eminent domain. Notwithstanding anything herein to the contrary, a locality exercising the powers granted by § [15.2-2109](#) or § [15.2-2115](#) shall be subject to the provisions of this section to the same extent as are corporations, unless otherwise provided in § [15.2-1906](#) or § [15.2-2146](#).

B. If the State Corporation Commission gives its permission to a condemnation, the Commission shall establish for use in any condemnation proceeding whether any payment for stranded investment is appropriate and, if so, the amount of such payment and any conditions thereof.

C. Any condemnor that is authorized to use the procedure set out in Chapter 3 (§ [25.1-300](#) et seq.) of this title by a provision that incorporates such procedure by reference shall, in using such procedure, be subject to the provisions of this section to the same extent as are corporations, unless the provision specifically provides that this section shall not apply to such condemnor's use of such procedure.

Code 1919, § 3832; 1996, c. [619](#), § 25-233; 1999, cc. [484](#), [531](#); 2003, c. [940](#).

§ 25.1-103. Condemnation of lands of state institutions.

Without the consent of the General Assembly, no condemnor shall be authorized to condemn or acquire any lands belonging to, attached to the site, or used for the purposes of any state institution.

Code 1919, § 4384; Code 1950, §§ 25-45, 25-46; 1962, c. 426, § 25-46.6; 2003, c. [940](#).

§ 25.1-104. Condemnation of lands of private educational institutions for highway purposes.

No lands of any private, nonprofit institution of higher education in the Commonwealth approved to confer degrees pursuant to Article 3 (§ [23.1-213](#) et seq.) of Chapter 2 of Title 23.1 that, at the time proceedings are instituted, (i) are located within 500 feet of any building erected and used for school pur-

poses or (ii) surround the school buildings and are used as a campus, park, or athletic ground or field, shall be subject to condemnation for the purposes of public highways.

Code 1919, § 4384; Code 1950, §§ 25-45, 25-46; 1962, c. 426, § 25-46.6; 2003, c. [940](#).

§ 25.1-105. Condemnation of cemeteries.

Nothing in this title shall be construed to authorize the condemnation of property of any cemetery or burial ground, or any part thereof. The authority to condemn any cemetery or burial ground shall be specifically as provided by law.

Code 1919, § 4384; Code 1950, §§ 25-45, 25-46; 1962, c. 426, § 25-46.6; 2003, c. [940](#).

§ 25.1-106. Condemnation of lands within agricultural and forestal districts.

No property that is within an agricultural and forestal district as provided by Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2 shall be condemned except in accordance with §§ [15.2-4312](#) and [15.2-4313](#).

1977, c. 681, § 25-46.2:2; 2003, c. [940](#).

§ 25.1-107. Condemnation of lands within adopted conservation or redevelopment plans.

A. After the adoption of a conservation or redevelopment plan pursuant to Article 7 (§ [36-48](#) et seq.) of Chapter 1 of Title 36, should any property located within the area of the conservation or redevelopment plan be downzoned without the expressed consent of the property owner and should the locality initiate condemnation proceedings against that owner after any such downzoning, the date of valuation shall be the date of adoption of the conservation or redevelopment plan. However, if the owner of the property on the date of the downzoning no longer owns the property on the date condemnation proceedings are initiated, then the date of valuation shall be the date of the filing of the petition for a condemnation or a certificate pursuant to Chapter 3 of this title, as the case may be.

B. If property located within a conservation or redevelopment plan adopted pursuant to Article 7 (§ [36-48](#) et seq.) of Chapter 1 of Title 36 was downzoned without the expressed consent of the property owner within a period of five years prior to the adoption of the conservation or redevelopment plan and if such downzoning was not part of a comprehensive rezoning of the locality, then, if the locality should initiate condemnation proceedings within five years after the adoption of the conservation or redevelopment plan against the same owner who owned the property at the time of the downzoning, the date of valuation shall be the day before the date the property was downzoned. However, if the owner of the property on the date condemnation proceedings are initiated is not the same owner on the date the property is downzoned, then the date of valuation shall be the date of the filing of a petition for condemnation or a certificate pursuant to Chapter 3 (§ [25.1-300](#) et seq.) of this title, as the case may be.

C. Where the date of valuation in condemnation proceedings governed by this section predates the date of any downzoning action, the locality may introduce into evidence before the body determining just compensation the estimated difference between the amount of real estate taxes that the owner would have paid had the downzoning not occurred and the amount of real estate taxes assessed

against the property since the date of the downzoning and the body determining just compensation may offset the award by that amount.

2004, c. [540](#).

§ 25.1-108. Offer to sell to former owner.

A. If a condemnor has acquired a fee simple interest in property by exercise of its power of eminent domain and subsequently declares that the property is surplus, the condemnor shall offer, within 30 days following such determination, to sell such property to the former owner or his heirs or other successors or assigns. If (i) the work or improvements described in any written statement required by law or in the petition for condemnation made pursuant to [§ 25.1-206](#) have not been let to contract or construction commenced within a period of 20 years from the date that the fee simple interest in the property vested in the condemnor, and the property is not being used for other public uses that are within the limitations set forth in [§ 1-219.1](#) or (ii) at any time the property is no longer used or needed for the public use for which the property was taken as may be described in any written statement required by law or in the petition for condemnation or for another specific public use that is within the limitations set forth in [§ 1-219.1](#), the condemnor shall declare its fee simple interest in the property to be surplus and offer to sell the property to the former owner or his heirs or other successors or assigns. Additionally, if the conditions described in clause (i) or (ii) occur, the former property owner or his heirs or other successors or assigns may make a written demand that the condemnor (a) declare its fee simple interest in the property to be surplus and (b) offer to sell the property to the former owner or his heirs or other successors or assigns. Any contractual provision or agreement by the former owner waiving the right to receive an offer to sell from the condemnor is void and unenforceable. The offer to sell shall be made in writing by the condemnor at the price paid by the condemnor to the former owner plus interest at the annual rate of six percent, provided that the condemnor may increase the price by the fair market value of the condemnor's improvements, determined at the time the offer to sell is made. In no case shall the price established by the condemnor exceed the fair market value of the property at the time the offer to sell is made. The offer to sell shall comply with the requirements of subsection B. If the former owner or his heirs or other successors or assigns do not accept in writing an offer to sell that complies with the requirements of this section within six months after the offer to sell has been made as provided in subsection B, the former owner or his heirs or other successors or assigns shall have no further right to purchase the property pursuant to this section. An offer to sell that satisfies the requirements of this subsection and subsection B shall be deemed a valid offer to sell under this section.

B. The condemnor shall (i) send the offer to sell to the former owner by certified mail, return receipt requested, to (a) the last known address of the former owner and (b) the address of the former owner as it appears in the tax records of the treasurer for the locality in which the property is located and (ii) publish the offer to sell in a newspaper having general circulation in the locality in which the property is located. The offer to sell shall be published once a week for two successive weeks, shall identify the former owner from whom the condemnor acquired the property, shall briefly describe the property

and the date title vested in the condemnor, shall state the offer is made pursuant to this section, and shall state that the offer is open to any heirs, successors, or assigns of the former owner, who shall be named in the offer as parties unknown.

C. This section shall apply only to a fee simple interest in real property acquired by a condemnor in the exercise of its power of eminent domain. This section shall not apply to property acquired by the Commissioner of Highways pursuant to Title 33.2. Further, this section shall not apply to property acquired by a locality for transportation projects, including for bond-funded transportation projects or for future transportation improvements, regardless of whether such projects are undertaken in conjunction with the Commonwealth Transportation Board, provided that as to any such acquisitions by a locality the provisions of § [33.2-1005](#) shall apply mutatis mutandis to the property and any disposition thereof. Also, this section shall not apply to property that is acquired by the owner of a railroad for actual operating purposes if the property is unsuitable for independent development.

2005, c. [2](#); 2006, c. [246](#); 2007, cc. [882](#), [901](#), [926](#); 2011, cc. [117](#), [190](#).

§ 25.1-109. Condemnation of lands for compensatory mitigation of wetlands.

When authorization is required by federal or state law for any project affecting wetlands and the authorization is conditioned upon compensatory mitigation for adverse impacts to wetlands, no condemnor shall acquire through exercise of the power of eminent domain any property to satisfy such condition unless: (i) the property sought to be acquired is located within the same locality as the project affecting wetlands, or (ii) the governing body of the locality where the property sought to be acquired consents to its acquisition for such purpose. This section shall not apply to property acquired by the Commissioner of Highways pursuant to Title 33.2.

2005, c. [311](#).

Chapter 2 - Condemnation Procedures

Article 1 - GENERAL PROVISIONS

§ 25.1-200. Chapter controls condemnation proceedings.

Unless otherwise specifically provided by law, all proceedings for the condemnation of property under the power of eminent domain shall be brought and conducted according to the provisions of this chapter.

1962, c. 426, § 25-46.2; 2003, c. [940](#).

§ 25.1-201. Jurisdiction of condemnation proceedings.

Jurisdiction of proceedings to condemn property under this chapter shall be in the circuit court of the county or city wherein such property, or the greater portion thereof proposed to be condemned is situated, unless otherwise specifically provided by law.

Code 1919, § 4361; Code 1950, § 25-2; 1962, c. 426, § 25-46.4; 2003, c. [940](#).

§ 25.1-202. Nature of proceedings.

Condemnation proceedings shall be conducted as actions at law.

1972, c. 533, § 25-46.4:1; 2003, c. [940](#).

§ 25.1-203. Authority of certain condemnors to inspect property; reimbursement for damages; notice prior to entry.

A. In connection with any project wherein the power of eminent domain may be exercised, any locality or any petitioner exercising the procedure set forth in Chapter 3 (§ [25.1-300](#) et seq.), acting through its duly authorized officers, agents or employees, may enter upon any property without the written permission of its owner if (i) the petitioner has requested the owner's permission to inspect the property as provided in subsection B, (ii) the owner's written permission is not received prior to the date entry is proposed, and (iii) the petitioner has given the owner notice of intent to enter as provided in subsection C.

B. 1. A request for permission to inspect shall (i) be sent to the owner by certified mail, return receipt requested, delivered by guaranteed overnight courier, or otherwise delivered to the owner in person with proof of delivery; and (ii) be made not less than 15 days prior to the first date of the proposed inspection. A request for permission to inspect shall be deemed to be made on the date of mailing, if mailed, or otherwise on the date of delivery.

2. A request for permission to inspect shall include (i) the specific date or dates such inspection is proposed to be made; (ii) the name of the entity entering the property; (iii) the number of persons for whom permission is sought; (iv) the purpose for which entry is made; and (v) the testing, appraisals, or examinations to be performed and other actions to be taken.

C. If the owner's written permission is not received within 15 days of the request for permission, then the petitioner shall provide notice of intent to enter. Notice of intent to enter shall be sent to the owner by certified mail and be (i) posted at the entryway to the property or at the front door or such other door that appears to be the main entrance of the residence or business located on the parcel upon which the property to be entered is located, if the parcel contains a residence or business; (ii) delivered by guaranteed overnight courier; or (iii) otherwise delivered to the owner in person with evidence of receipt. The notice of intent to enter shall include a copy of the request for permission to inspect and shall be made not less than 15 days prior to the date of intended entry. The notice of intent to enter shall include (a) the specific date or dates of such intended entry; (b) the name of the entity entering the property; (c) the number of persons intending to enter the property; (d) the purpose for which entry is made; and (e) the testing, appraisals, or examinations to be performed and other actions to be taken, which in no way shall exceed those set forth in the request for permission pursuant to subdivision B 2. Notice of intent to enter shall be deemed made on the earlier of (1) the date of mailing, if mailed, or (2) on the date of delivery or posting. Any individuals entering the property shall carry identification and shall present such identification upon request of the landowner or his authorized representative.

D. Any entry authorized by this section (i) shall be for the purpose of making surveys, tests, appraisals or examinations thereof in order to determine the suitability of such property for the project, and (ii) shall not be deemed a trespass.

E. The petitioner shall make reimbursement for any actual damages resulting from entry upon the property. In any action filed under this section, the court may award the owner his reasonable (i) attorney fees, (ii) court costs, and (iii) fees for up to three experts or as many experts as are called by the petitioner, whichever is greater, who testified at trial if the court finds that the petitioner damaged the owner's property. A proceeding under this subsection shall not preclude the owner from pursuing any additional remedies available at law or equity.

F. The requirements of this section shall not apply to the practice of land surveying, as defined in § [54.1-400](#), when such surveying is not involved in any eminent domain or any proposed eminent domain matter.

1968, c. 415, § 25-232.1; 1970, c. 182; 2003, c. [940](#); 2005, c. [877](#); 2019, c. [788](#).

§ 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 interest in property by purchase or filing a certificate of take or certificate of deposit pursuant to Chapter 3 (§ [25.1-300](#) et seq.) or § [33.2-1019](#), shall (i) conduct or cause to be conducted an examination of title to the property in order to ascertain the identity of each owner of such property and to determine the nature and extent of such owner's interests in the property and (ii) provide to such owner or owners a copy of the report of status of title.

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

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

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

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

Code 1919, § 4363; Code 1950, § 25-7; 1962, c. 426, § 25-46.5; 1998, c. [556](#); 2000, c. [1029](#); 2003, cc. [627](#), [940](#); 2005, c. [878](#); 2011, cc. [117](#), [190](#); 2013, c. [764](#); 2020, c. [793](#).

Article 2 - CONDEMNATION PROCEEDINGS

§ 25.1-205. Commencement of proceedings.

A. Proceedings for condemnation shall be initiated by filing a petition complying with the requirements of § [25.1-206](#) in the court.

B. A public utility shall not be required, as a prerequisite to its filing of its petition for the condemnation of property necessary for ordinary extensions or improvements of its facilities within the territory in which it is lawfully authorized to operate, for use in public utility service, to obtain a certificate from the State Corporation Commission under the Utility Facilities Act, Chapter 10.1 (§ [56-265.1](#) et seq.) of Title 56. This subsection shall not be construed to exempt a public utility from the requirements of § [25.1-102](#) when the condemnation would take property of another corporation possessing the power of eminent domain.

Code 1919, §§ 4364, 4365; Code 1950, §§ 25-8, 25-9, 25-10; 1962, c. 426, §§ 25-46.7, 25-46.9; 1975, c. 189; 1980, c. 441; 1981, c. 316; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-205.1. Mandatory dispute resolution orientation session.

Following the filing of a petition initiating a condemnation proceeding, the court shall refer the matter to a dispute resolution orientation as provided in § [8.01-576.5](#). The court shall set a date for the parties to return to court in accordance with its regular docket and procedure, irrespective of the referral to an orientation session. The parties shall notify the court, in writing, if the dispute is resolved prior to the return date.

Upon such referral, the parties shall attend one orientation session. Further participation in a dispute resolution proceeding shall be by consent of all parties. Attorneys for any party may be present during a dispute resolution proceeding.

2006, c. [415](#).

§ 25.1-206. Petition for condemnation.

The petition for condemnation shall contain:

1. A caption wherein the person vested by law with power to exercise the right of eminent domain shall be the petitioner, and the named defendants shall be at least one of the owners of some part of or an interest in the property to be taken or damaged, and the property to be taken designated generally by kind, quantity and location.
2. Short and plain statements of the following:
 - a. The authority for the taking;
 - b. The necessity for the work or improvements to be made;
 - c. The public uses for which the property is to be taken;
 - d. A description of the work or improvements to be made; and if (i) only a portion of the property is to be taken or (ii) any other property will or is likely to be damaged as the result of the taking, a plat, drawing or plan, in sufficient detail to disclose fairly the nature of such work or improvements, including specifications, elevations and grade changes, if any, so as to enable the owner of such property to be

reasonably informed of the nature, extent and effect of such taking and the construction and operation of such works and improvements, shall be attached as an exhibit to the petition;

e. The estate, interest or rights in the property to be taken;

f. A description of the property to be taken sufficient for its identification and a plan or plat of the land to be taken shall be attached as an exhibit to the petition;

g. As to each separate piece of property to be taken or damaged, the names and residences, so far as known by petitioner, of the defendants who are joined as owners of the property, or of some interest therein, if their names have been ascertained by a reasonably diligent search of the records, considering the character and value of the property involved and the interests to be acquired, or if their names have otherwise been learned; and if the names of other persons or classes of persons to be joined as owners of the property are unknown, such persons may be made defendants under the designation of "Unknown Owners";

h. Compliance with the provisions of § [25.1-204](#) and the manner of such compliance; and

i. Where applicable, compliance with the provisions of § [25.1-102](#) and the manner of such compliance.

3. A prayer asking for judgment (i) that the property or the estate, interest or rights therein be condemned and the title thereto vested in the petitioner, (ii) that just compensation be ascertained as provided in § [25.1-230](#) and awarded, and (iii) for such other relief as may be lawful and proper.

4. The petition shall be verified by affidavit of a duly authorized officer, agent or attorney for the petitioner.

5. The petitioner shall furnish the clerk one copy of the petition and all exhibits thereto and such additional copies of the petition as may reasonably be needed by the clerk or any defendant.

Code 1919, § 4364; Code 1950, §§ 25-8, 25-9; 1962, c. 426, § 25-46.7; 1980, c. 441; 1981, c. 316; 1991, c. 520; 2003, c. [940](#).

§ 25.1-207. Inclusion in petition of request for right of entry.

The petition may also include (i) facts and circumstances on the basis of which the petitioner desires to obtain the right of entry as provided in § [25.1-223](#) or as provided in any charter and (ii) a prayer asking for such right of entry.

Code 1919, § 4364; Code 1950, §§ 25-8, 25-9; 1962, c. 426, § 25-46.7; 1980, c. 441; 1981, c. 316; 1991, c. 520; 2003, c. [940](#).

§ 25.1-208. Joinder of separate parcels.

The same petition may join one or more separate pieces, tracts, parcels or lots of land, whether in the same or different ownership and whether or not sought for the same use; however, the court, on its own motion or on motion of any party in furtherance of convenience or to avoid prejudice, may order a severance and separate trial of any claim or claims or of any issue or issues.

Code 1919, § 4364; Code 1950, §§ 25-8, 25-9; 1962, c. 426, § 25-46.7; 1980, c. 441; 1981, c. 316; 1991, c. 520; 2003, c. [940](#).

§ 25.1-209. Notice of filing of petition.

A. Upon the filing of a petition for condemnation, the petitioner shall give the owners 21 days' notice of the filing of such petition and of its intention to apply to the court to ascertain just compensation for the property to be taken or affected as a result of the taking and use by the petitioner of the property to be so acquired.

B. The notice, along with a copy of the petition, shall be served on the owners. In such notice, the petitioner shall give notice that an answer and grounds of defense shall be filed setting forth any objection or defense to the taking or damaging of his property or to the jurisdiction of the court to hear the case and to elect to proceed with either the appointment of commissioners or empanelment of a jury for the determination of such just compensation.

C. The notice may also include notice of the petitioner's application for the right of entry as provided in [§ 25.1-223](#), if such application is included in the petition as authorized by [§ 25.1-207](#).

D. A copy of the notice required to be served on the owners by this section also shall be served in the same manner upon any tenant entitled to participate in the proceeding pursuant to [§ 25.1-234](#), whose lease has been duly recorded or whose tenancy is actually known to the petitioner. However, a tenant so notified may participate in the proceeding only as permitted by [§ 25.1-234](#).

E. In addition to any other notice required to be served pursuant to this section, in any proceeding instituted by the Commissioner of Highways under this title or Title 33.2, a copy of the notice of the filing of the petition also shall be served, in the same manner as such notice is served upon owners, upon any person owning structures or improvements for which an outdoor advertising permit has been issued by the Commissioner of Highways pursuant to [§ 33.2-1208](#).

Code 1919, § 4365; Code 1950, § 25-10; 1962, c. 426, § 25-46.9; 1975, c. 189; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#); 2010, c. [835](#).

§ 25.1-210. Service of notice by order of publication; mailing copy of notice by publication.

A. Upon the filing of an affidavit by a duly authorized officer, agent or attorney for the petitioner stating that he believes any owner cannot be personally served because after diligent inquiry within the Commonwealth such owner's place of residence cannot be ascertained or, if ascertained, that it is not within this Commonwealth, service of the notice may be made on such owner by an order of publication. Such order shall be published in a newspaper published in the county or city where the property or major portion thereof is located, or if there is no such newspaper then in a newspaper having a general circulation in such city or county, once a week for not less than two successive calendar weeks and shall be posted on the front door of the courthouse within 10 days after the entry of the order of publication. Unknown owners who may have an interest in the property may be served by order of publication in like manner addressed to "Unknown Owners." The clerk shall mail a copy of the

notice by publication to any owner who cannot be personally served but whose place of residence is then known.

B. The provisions of this section and § [25.1-211](#) shall apply only to orders of publication in condemnation actions.

Code 1919, § 4365; Code 1950, § 25-11; 1962, c. 426, § 25-46.10; 1982, c. 384; 2003, c. [940](#).

§ 25.1-211. Form of notice by publication.

A. The form of the notice by publication pursuant to § [25.1-210](#), to which shall be attached the signature of the clerk, or the deputy clerk for and on behalf of the clerk, shall be substantially as follows:

Virginia: In the (here insert the name of the court)

Name of petitioner

v. At Law.....

Name of one or more defendants, et al.,

and (.....) acres, more or less, of land in

(city or county), Virginia.

To Whom It May Concern:

Pursuant to an order entered on the.....day of....., 20....., this notice is hereby given:

In this proceeding the petitioner seeks to acquire by condemnation..... (here state the estate, interest, or right to be acquired) to certain pieces or parcels of land situated in.....(county or city), Virginia, for the uses and purposes of the petitioner.....(here state briefly the uses and purposes and nature of the works and improvements to be made), all of which are described more particularly in the petition and exhibits attached

thereto on file in the office of the clerk of his court, to which reference is hereby made for a full and accurate description thereof; and for the appointment of commissioners or the empanelment of a jury to ascertain just

compensation to the owners of any estate or interest in the property to be taken or affected as a result of the taking and use thereof by the petitioner.

For such purposes, the petitioner will apply to the court, sitting at....., Virginia, on the..... day of....., 20....., at..... o'clock....m., or as soon thereafter as petitioner may be heard, for the appointment of commissioners or the empanelment of a jury to ascertain just compensation as aforesaid.

And it appearing by affidavit filed according to law that the following owners are not residents of the Commonwealth of Virginia, or their names and addresses are not known and that diligence has been used by and on behalf of the petitioner to ascertain such names and addresses without effect: (here set out the names of such owners or classes of owners and addresses where known), it is ordered that the aforesaid owners do appear within 10 days after due publication of this order in the clerk's office of

the (here insert the name of the court) and do what is necessary to protect their interests; and it is further ordered that if any of the above named owners desires to assert any objection or defense to the taking or damaging of his property or to the jurisdiction of the court to hear the case and to proceed with the appointment of commissioners or the empanelment of a jury he shall file his answer and grounds of defense designating the property in which he claims to be interested, the grounds of any objection or defense to the taking or damaging of his property or to the jurisdiction of the court to hear the case and to proceed with the appointment of commissioners or the empanelment of a jury for the determination of just compensation. Should any such owner fail to file his answer and grounds of defense as hereinabove provided, such failure shall not preclude the owner from appearing on the date set for the appointment of commissioners or the empanelment of a jury nor from presenting evidence as to valuation and damage nor from sharing in the award of just compensation according to his interest therein or otherwise protecting his rights, but such failure shall preclude such owner from any other defense by way of pleas in bar, abatement or otherwise.

An extract, Teste:

.....
Clerk

(Here state name and address of counsel for petitioner)

B. Such notice by publication may also include notice of the petitioner's application for the right of entry as provided in § [25.1-223](#), whenever such application is included in the petition.

1962, c. 426, § 25-46.11; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-212. Personal service of notice on nonresident owner.

Personal service of the notice of the filing of a petition may be made by any person, not a party to or otherwise interested in the subject matter in controversy, on a nonresident owner out of this Commonwealth. Such service shall have the same effect, and no other, as an order of publication duly executed, or the publication of notice under this chapter, as the case may be. In such case the return shall be made under oath, and shall show the time and place of such service, that the party serving the same is not a party to or otherwise interested in the subject matter in controversy, and that the person so served is a nonresident of this Commonwealth.

1962, c. 426, § 25-46.12; 2003, c. [940](#).

§ 25.1-213. Filing an answer and grounds of defense; election of commissioners or jury.

Within 21 days of the service thereof any such owner who desires to assert any objection or defense to the taking or damaging of his property or to the jurisdiction of the court to hear the case, and to make his election to proceed with either the appointment of commissioners or the empanelment of a jury, shall file (i) his answer and grounds of defense designating the property in which he claims to be interested, (ii) the grounds of any objection or defense to the taking or damaging of his property or to the jur-

isdiction of the court to hear the case, and (iii) his election to proceed with either the appointment of commissioners or the empanelment of a jury for the determination of just compensation.

Code 1919, § 4365; Code 1950, § 25-10; 1962, c. 426, § 25-46.9; 1975, c. 189; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#); 2010, c. [835](#).

§ 25.1-214. Failure of owner to file answer and grounds of defense.

A. The failure of any owner to file an answer and grounds of defense as provided in § [25.1-213](#) shall not preclude the owner from (i) appearing on the date set for the appointment of commissioners or the empanelment of a jury, (ii) presenting evidence as to valuation and damage, or (iii) sharing in the award of just compensation according to his interest therein or otherwise protecting his rights.

However, such failure shall preclude the owner from any other defense by way of pleas in bar or otherwise, except that for good cause shown the time for filing such answer and grounds of defense may be extended by the court.

B. If the owner fails to file an answer and grounds of defense, or if the owner files an answer and grounds of defense that fails to elect to have the determination of just compensation made by either commissioners or a jury, then the petitioner may elect to have the issue of just compensation determined by either commissioners or a jury, or by the court as provided in § [25.1-220](#).

Code 1919, § 4365; Code 1950, § 25-10; 1962, c. 426, § 25-46.9; 1975, c. 189; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#); 2010, c. [835](#).

§ 25.1-215. No notice required where owner is a person under a disability; appointment of guardian ad litem.

If any owner is a person under a disability and has no guardian, conservator or committee in this Commonwealth, (i) no notice need be issued for or served upon such owner and (ii) a guardian ad litem for such owner shall be appointed in the manner prescribed in § [8.01-9](#).

Code 1919, § 4365; Code 1950, § 25-11; 1962, c. 426, § 25-46.13; 1997, c. [801](#); 2003, c. [940](#).

§ 25.1-216. Amendments to pleadings.

A. No amendments shall be made to the petition or other pleading after it is filed, except by leave of court.

B. Leave to amend for the addition of new parties and for other purposes shall be liberally granted in furtherance of the ends of justice.

C. In granting leave to amend, the court may make such provision for notice and opportunity to make response as the court deems reasonable and proper.

1962, c. 426, § 25-46.14; 2003, c. [940](#).

§ 25.1-217. Substitution of party where owner becomes incapable of defending.

A. If an owner becomes incapable of defending because of death, insanity, conviction of felony, removal from office, or other cause, his successor in interest may be substituted as a party in his place. Substitution shall be made on motion of the successor or of any party to the proceedings.

B. If the successor does not make or consent to the motion, the party making the motion shall file it with the court and the procedure thereon and the service of notice of such motion, if any, shall be in whatever manner the court may require as reasonable and proper in the circumstances involved but in no event shall the period of time required for any notice be greater than that which is prescribed for the notice in § [25.1-209](#) or § [25.1-210](#).

1962, c. 426, § 25-46.15; 2003, c. [940](#).

§ 25.1-218. Intervention in proceedings.

Any person not already a party to the proceedings whose property, or any interest or estate therein, is to be taken or damaged, or who claims that his other property, or any interest therein will be damaged as a result of the taking and use by the petitioner, may be made a party to the proceeding upon filing a petition for intervention by leave of court (i) at any time prior to the beginning of the trial of the issue of just compensation, or (ii) in the discretion of the court, at such other times during the pendency of the proceeding upon such terms and conditions as the court deems proper, considering all the circumstances at that time. Such a person intervening in the proceeding shall be permitted to assert any claim or defense then germane to the proceeding upon such terms and conditions as the court deems reasonable and proper.

Code 1919, § 4383; Code 1950, § 25-42; 1962, c. 426, § 25-46.16; 2003, c. [940](#).

§ 25.1-219. Pretrial settlement conference; determination of preliminary issues; fixing date of trial on issue of just compensation.

A. The owner or the petitioner in any condemnation proceeding may request and, if requested, the court shall order a pretrial settlement conference. Such conference shall be conducted by a neutral third party, if available. Such conference may be requested at any time by either the owner or the petitioner. If requested, such conference shall be held within the 30 days preceding the scheduled trial date. If such a conference is ordered, the court shall order both parties to appear with counsel, if any, and the parties shall appear with settlement authority. All settlement conferences conducted pursuant to this provision shall be nonbinding. If settlement is not reached, the matter shall proceed to trial as set upon the docket.

B. At the hearing upon the petition and application for either the appointment of commissioners or the empanelment of a jury made in accordance with § [25.1-209](#), if no answer and grounds of defense has been filed objecting to the jurisdiction of the court to hear the case and to proceed with the appointment of commissioners or the empanelment of a jury, the court shall enter an order fixing a date for the trial of the issue of just compensation and stating that such issue shall be determined by a commission, by a jury or by the court, as provided in § [25.1-220](#). If any answer and grounds of defense has been filed objecting to the jurisdiction of the court, the court shall determine such issues or other matters in controversy, excepting the issue of just compensation or matters relating to the ownership of any land or other property or the interests of any party in such land or other property before fixing a date for the trial of the issue of just compensation.

C. If the court determines all such issues or other matters involving the jurisdiction of the court in favor of the petitioner, the court shall enter an order fixing a date for the trial of the issue of just compensation and stating that such issue shall be determined either by a commission, by a jury or by the court, as provided in § [25.1-220](#).

D. An order of the court in favor of the petitioner on any of the foregoing preliminary issues or matters shall not be a final order for purposes of appeal but an order against the petitioner on such issues or matters shall be a final order for purposes of appeal, if the petitioner so elects. If the order against the petitioner does not dismiss the petition, the petitioner may elect to proceed with the case without waiving any of its objections and exceptions to the rulings of the court.

E. At such hearing the court shall also determine whether the petitioner shall be granted a right of entry as provided in § [25.1-223](#).

1962, c. 426, § 25-46.17; 1991, c. 520; 2000, c. [1029](#); 2002, c. [272](#); 2003, c. [940](#); 2006, c. [586](#); 2010, c. [835](#).

§ 25.1-220. Who determines issue of just compensation.

The issue of just compensation shall be determined by a commission or a jury, upon a timely election made by an owner as provided in § [25.1-213](#). However, by agreement of the petitioner and all the parties who are sui juris that have appeared or responded, or, if no owner upon proper notice has appeared or responded, or has filed an answer and grounds of defense that fails to elect to have the determination of just compensation made by either commissioners or a jury, then, upon motion of the petitioner, the issue of just compensation may be determined by the court.

1962, c. 426, § 25-46.19; 1984, c. 377; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#); 2010, c. [835](#).

§ 25.1-221. Consolidation of petitions for trial.

Unless any party demands a separate hearing on the issue of just compensation, the court may consolidate for trial two or more petitions.

1972, c. 169, § 25-46.17:1; 2003, c. [940](#).

§ 25.1-222. Proceedings not to be delayed by claims with respect to ownership of property.

No delay in the proceeding for the determination of just compensation shall be occasioned by the claims of the parties with respect to the ownership of any land or other property or to the interest therein of the respective parties. In such cases the court shall require the retention of the deposit of the award for the whole property, or the part in dispute, until the rights of the respective parties have been determined in the manner hereinafter provided in § [25.1-241](#); provided, however, the court shall permit any such claimants to intervene as parties to the proceedings as provided in § [25.1-218](#).

1962, c. 426, § 25-46.18; 2003, c. [940](#).

Article 3 - RIGHT OF ENTRY AFTER FILING PETITION

§ 25.1-223. Right to enter upon property.

A. Unless otherwise provided by law, any petitioner may enter upon the property to be condemned at any time after the filing of its petition for condemnation, for the purpose of constructing its works or improvements thereon in the manner proposed by the petitioner upon approval of the petitioner's application for entry as provided in this article.

B. Notice of the petitioner's application for entry shall be served on the owners in the same manner as is provided in this chapter for service of notice of the filing of a petition.

Code 1919, § 4362; 1924, p. 60; Code 1950, §§ 25-3, 25-4; 1962, c. 426, § 25-46.8; 1977, c. 394; 1979, c. 494; 2003, c. [940](#).

§ 25.1-224. Conditions upon entry; bonding; withdrawal of share by owner.

A. The court, after 21 days following service of the petitioner's application, and after a hearing thereon, may approve the petitioner's application if it finds that:

1. A public necessity or an essential public convenience requires such entry for such purposes;
2. An emergency exists justifying such entry before the time when just compensation can be determined and the amount so determined paid into court; and
3. The interests of the owners of such property will be adequately protected by (i) the payment into court for the benefit of the owners of the amount of the offer made in accordance with § [25.1-204](#) or (ii) if no offer is required by that section, by the payment into the court of the amount of a good faith estimate of the value of the property.

B. In addition, the court may require the petitioner to give a surety bond in an amount and with such surety as the court may determine.

C. Upon such findings and payment and the giving of such bond, if any is required, with surety in the office of the clerk or with the court, conditioned as required by law and to the effect that the petitioner and its surety or sureties are bound to the owners of the property to be taken or damaged to secure to each of them payment of just compensation therefor as finally determined in the condemnation proceedings, the petitioner shall have the right to enter and construct its works or improvements upon or through the property as described in its petition.

D. At any time after such payment into court, a party whose property or interest therein is to be taken or damaged may apply to the court for the withdrawal of his share thereof in the manner provided in § [25.1-243](#).

E. The clerk shall deposit the funds so paid to the credit of the court in an account of a type that bears interest.

F. At any time during the condemnation proceedings, if it appears necessary to do so in order to protect the owners of the property or estate or interest therein to be condemned and assure unto them the payment of just compensation to which they are entitled, the court may require the petitioner to give a new and additional bond in an amount and with sureties satisfactory to the court.

Code 1919, § 4362; 1924, p. 60; Code 1950, §§ 25-3, 25-4; 1962, c. 426, § 25-46.8; 1977, c. 394; 1979, c. 494; 2003, c. [940](#).

§ 25.1-225. Abandonment of proceedings after entry upon property.

If the petitioner enters upon the property under this section and does any work thereon, or causes any injury or damage to such property, it shall not thereafter be entitled, without the consent of the owner, to abandon the proceedings for the condemnation thereof, but shall conduct the condemnation proceedings with reasonable dispatch to final judgment.

Code 1919, § 4362; 1924, p. 60; Code 1950, §§ 25-3, 25-4; 1962, c. 426, § 25-46.8; 1977, c. 394; 1979, c. 494; 2003, c. [940](#).

Article 4 - DETERMINATION OF JUST COMPENSATION BY COMMISSIONERS

§§ 25.1-226, 25.1-227. Repealed.

Repealed by Acts 2006, c. [586](#), cl. 2.

§ 25.1-227.1. Qualifications of commissioners.

A. The provisions of this article shall apply in eminent domain proceedings in which the issue of just compensation is to be determined by a commission.

B. All commissioners shall be disinterested freeholders and residents of the county or city wherein the property or the greater portion of the property to be condemned is situated. No person shall serve as a commissioner for more than one full week within any three-month period, unless agreed to by the parties.

2010, c. [835](#).

§ 25.1-227.2. Empanelment of commissioners.

A. The parties to the eminent domain proceeding may agree upon five or nine persons qualified to act as commissioners, as provided in subsection B of § [25.1-227.1](#).

B. If the parties cannot agree upon five or nine qualified persons to act as commissioners, then each party shall present to the court a list containing the names of at least eight qualified persons. If any party fails to submit such a list of names, the court may, in its discretion, submit such a list on such party's behalf.

C. From the lists submitted pursuant to subsection B, the court shall select the names of thirteen potential commissioners and at least two alternates. At least 30 days prior to their service, such persons shall be summoned to appear.

D. If nine qualified persons are selected, the petitioner and the owners shall each have two peremptory challenges and the remaining five shall serve as commissioners. If five qualified persons are agreed upon as provided in subsection A, they shall serve as commissioners.

E. If an owner has filed no answer to the petition, and the court finds that the owner is not represented by counsel, the court may, in its discretion, and subject to the right of the petitioner to challenge for cause, subpoena five persons who shall serve as commissioners.

F. Any three or more of the five commissioners may act.

G. In condemnation proceedings instituted by the Commissioner of Highways, a person owning structures or improvements for which an outdoor advertising permit has been issued by the Commissioner of Highways pursuant to § [33.2-1208](#) shall be deemed to be an "owner" for purposes of this section.

2010, c. [835](#); 2016, c. [265](#); 2018, c. [158](#).

Article 5 - DETERMINATION OF JUST COMPENSATION BY JURORS

§ 25.1-228. Qualification of jurors.

A. The provisions of this article shall apply in eminent domain proceedings in which the issue of just compensation is to be determined by a jury.

B. Persons selected as condemnation jurors shall be residents of the county or city in which the property to be condemned, or the greater portion thereof, is situated. No person shall be eligible as a condemnation juror when he, or any person for him, solicits or requests a member of the jury commission to place his name on a list of condemnation jurors. All of the persons included on the list of condemnation jurors shall be freeholders of property within the jurisdiction.

Code 1919, §§ 4366, 4367; 1928, p. 334; 1948, p. 168; Code 1950, §§ 25-12, 25-16; 1962, c. 426, § 25-46.20; 1968, c. 535; 1973, c. 510; 1974, c. 625; 1975, c. 551; 1991, c. 520; 1993, c. 906; 1997, c. [58](#); 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#).

§ 25.1-229. Selection of jurors.

A. Except as otherwise provided in this section, the provisions of Chapter 11 (§ [8.01-336](#) et seq.) of Title 8.01 shall apply to the selection of condemnation juries mutatis mutandis. While preserving the random selection process set forth in § [8.01-345](#), the jury commissioner shall determine the freeholder status of individuals randomly selected by reference to tax rolls or other reliable data the judge of the circuit court deems appropriate.

B. All of the acting jurors and all of the names drawn for alternate jurors shall be freeholders of property within the jurisdiction. On the day set for trial, jurors who appear shall be called to be sworn on their voir dire until a disinterested and impartial panel is obtained. A juror may be stricken for cause. From the impartial panel the judge shall randomly select 13 jurors. From the panel of 13 jurors each party shall have four peremptory strikes. The court may appoint alternate jurors. Five persons from a panel of not fewer than 13 jurors shall constitute a jury in a condemnation case. If fewer than seven jurors remain before the court prior to the exercise of peremptory strikes, the trial may proceed and be heard by less than five jurors provided the parties agree. However, no trial shall proceed with fewer than three jurors.

C. The conclusion of the jurors need not be unanimous, and a majority of the jurors may act in the name of the jury.

D. In condemnation proceedings instituted by the Commissioner of Highways, a person owning structures or improvements for which an outdoor advertising permit has been issued by the Commissioner of Highways pursuant to § [33.2-1208](#) shall be deemed to be an "owner" for purposes of this section.

Code 1919, §§ 4366, 4367; 1928, p. 334; 1948, p. 168; Code 1950, §§ 25-12, 25-16; 1962, c. 426, § 25-46.20; 1968, c. 535; 1973, c. 510; 1974, c. 625; 1975, c. 551; 1991, c. 520; 1993, c. 906; 1997, c. [58](#); 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#); 2007, cc. [450](#), [720](#).

Article 6 - Provisions Applicable to Determinations of Just Compensation

§ 25.1-230. Measure of just compensation; oaths of members of body determining just compensation.

A. The body determining just compensation shall ascertain (i) the value of the property to be taken and (ii) the damages, if any, that may accrue to the residue beyond the specific enhancement in value, if any, to such residue caused by the taking and public use of the property for which it is condemned. Such enhancement in value shall not be offset against the value of the property taken, and if such enhancement in value exceeds the damages, there shall be no recovery against the landowner for such excess.

In determining the market value of the property before the taking, the body determining just compensation may consider everything a buyer and seller in the marketplace would reasonably consider, but may not consider any increase or decrease in the fair market value of the property caused by the public use for which the property is being acquired, or by the likelihood that the property would be acquired for such public use, other than that due to physical deterioration within the reasonable control of the owner.

In determining the market value of the residue after the taking, the body determining just compensation may consider everything a buyer and seller in the marketplace would reasonably consider, including the public use for which the property is being acquired, but may not consider any general enhancement the residue experiences in common with surrounding properties as a result of the public use.

Nothing in this subsection shall make evidence of tax assessments admissible as proof of value in an eminent domain proceeding.

B. Before executing their duties, each member of the body determining just compensation shall take an oath before an officer authorized by the laws of the Commonwealth to administer an oath that he will faithfully and impartially ascertain the amount of just compensation to which a party is entitled.

Code 1919, §§ 4366, 4367; 1928, p. 334; 1948, p. 168; Code 1950, §§ 25-12, 25-16; 1962, c. 426, § 25-46.20; 1968, c. 535; 1973, c. 510; 1974, c. 625; 1975, c. 551; 1991, c. 520; 1993, c. 906; 1997, c. [58](#); 2000, c. [1029](#); 2003, c. [940](#); 2019, c. [788](#).

§ 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](#).

"Business profit" means the average net income for federal income tax purposes for the three years immediately prior to the later of (i) the date of valuation 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, for a business or farm operation located on the property taken.

"Direct access" means ingress or egress on or off a public road, street, or highway at a location where the property adjoins that road, street, or highway.

"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 caused by the taking or damaging of the property. 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](#), by reason of the taking and use by the petitioner. If such peculiar benefit or enhancement in value shall exceed the reduction in value, there shall be no recovery against the landowner for such excess. The body determining just compensation may not consider an injury or benefit that the property owner experiences in common with the general community, including off-site circuitry of travel and diversion of traffic, arising from an exercise of the police power. 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 only if the owner proves with reasonable certainty the amount of the loss and that the loss is directly and proximately caused by the taking 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 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 be bifurcated from the other proceedings to determine just compensation if the lost profits claim period will not expire until one year or later from the date of the filing of the petition for condemnation, 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 temporary interference with or interruption of a business or farm operation other than that which is directly and proximately caused by a taking or damaging of property through the exercise of eminent domain.

2012, cc. [699](#), [719](#); 2015, c. [642](#); 2018, c. [702](#); 2019, c. [788](#).

§ 25.1-231. View of property.

The court shall direct the body determining just compensation, in the custody of the sheriff or sergeant or one of his deputies, to view the property described in the petition with the owner and the petitioner, or any representative of either party, and none other, unless otherwise directed by the court. Upon motion of either party, the judge shall accompany the body determining just compensation upon such view. Such view shall not be considered by the body determining just compensation as the sole evidence in the case.

Code 1919, §§ 4368, 4369; Code 1950, §§ 25-17, 25-18, 25-18.1; 1956, c. 563; 1962, c. 426, § 25-46.21; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-232. Testimony on issues; report on just compensation.

- A. Upon completion of the view, the court shall hear the testimony in open court on the issues joined.
- B. When the body determining just compensation shall have arrived at its conclusion, it shall make its report in writing to the court.

Code 1919, §§ 4368, 4369; Code 1950, §§ 25-17, 25-18, 25-18.1; 1956, c. 563; 1962, c. 426, § 25-46.21; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-233. Confirmation of report; exceptions to report.

- A. The report of the body determining just compensation may be confirmed or set aside forthwith by the court.
- B. However, when the report is so filed and before the court passes thereon, either party shall have the right to file written exceptions to the report, which shall be filed not later than 10 days after the rendering of the report by the body determining just compensation. The court shall have the same power over the reports of the body determining just compensation as it now has over verdicts of juries in civil actions.
- C. Upon hearing of exceptions to the report the court shall not recall and question the members of the body determining just compensation as to the manner in which their report was determined unless there be an allegation in such written exceptions that fraud, collusion, corruption or improper conduct entered into the report. If such allegation is made, the judge shall summon the members of the body determining just compensation to appear and he alone shall question them concerning their actions. If the court be satisfied that fraud, collusion, corruption or improper conduct entered into the report of the body determining just compensation, the report shall be set aside and a new body to determine just compensation shall be empanelled to rehear the case.
- D. If the court be satisfied that no such fraud, collusion, corruption or improper conduct entered into the report of the body determining just compensation, or no other cause exists that would justify setting aside or modifying a jury verdict in civil actions, the report shall be confirmed.

Code 1919, §§ 4368, 4369; Code 1950, §§ 25-17, 25-18, 25-18.1; 1956, c. 563; 1962, c. 426, § 25-46.21; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#).

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

- A. Any tenant under a lease with a term of 12 months or longer may participate in the proceedings to determine just compensation to the same extent as his landlord or the owner, if, not less than 10 days prior to the date for the trial of the issue of just compensation, such tenant shall file his petition for intervention, in the manner provided in § [25.1-221](#). Such petition for intervention shall include (i) a verified copy of the lease under which he is in possession and (ii) an affidavit by the tenant or his duly authorized agent or attorney, stating:

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

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

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

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

D. As used in this section, "proceedings to determine just compensation" means proceedings described in §§ [25.1-231](#), [25.1-232](#), and [25.1-233](#).

1966, c. 512, § 25-46.21:1; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-235. Compensation of commissioners or jurors.

The commissioners or jurors summoned shall, for every day or portion thereof they may be employed in the performance of their duties, receive an allowance in the amount prescribed in § [17.1-618](#) as compensation for their attendance, travel and other costs, to be paid by the petitioner.

Code 1919, § 4366; 1928, p. 335; 1948, p. 169; Code 1950, § 25-15; 1962, c. 426, § 25-46.22; 1973, c. 26; 1974, c. 346; 1976, c. 308; 1982, c. 566; 1993, c. 137; 2000, c. [1029](#); 2003, c. [940](#); 2006, c. [586](#); 2010, cc. [177](#), [835](#).

§ 25.1-236. Contracts made part of report.

If the petitioner and the person whose property is being condemned under the provisions of this chapter shall, before the report of just compensation is made, (i) enter into any contract in relation to building, operating, or maintaining the proposed work, or in relation to fencing, culverts, depots, stations, crossings, sidings, cattle guards, damage from fire, injury to or destruction of property, real or personal, or like matters, and (ii) introduce such contract at the trial of the issue of just compensation, such contract shall be accepted and made a part of the report of the award of just compensation. Upon confirmation of such report, the contract shall thereafter run as a covenant with the land or with the interest or estate therein taken.

Code 1919, § 4380; Code 1950, §§ 25-36, 25-37; 1962, c. 426, § 25-46.23; 2003, c. [940](#).

Article 7 - JUDGMENT AND POST-JUDGMENT PROCEDURE

§ 25.1-237. Payment of compensation and damages into court; vesting of title.

Upon the return of the report of the body determining just compensation, and the confirmation, alteration or modification thereof in the manner provided in this chapter, the sum so ascertained by the court as compensation and damages, if any, to the property owners may be paid into court. Upon paying such sum into court, title to the property and rights condemned shall vest in the petitioner to the

extent prayed for in the petition, unless such title shall have already vested in the petitioner in a manner otherwise provided by law. The petitioner or its agent shall have the right to enter and construct its works or improvements upon or through the property described in its petition.

Code 1919, § 4369; Code 1950, §§ 25-19, 25-20; 1962, c. 426, § 25-46.24; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-238. Petitioner may begin work during pendency of proceedings; injunction prohibited.

A. Upon the return of the report of the body determining just compensation and upon payment into court of the sum ascertained therein, the petitioner or its agents may enter and construct its works or improvements upon or through the property as described in its petition, notwithstanding the pendency of proceedings on any objections to such report in the trial court, or upon an appeal of the case, or the ordering of a new trial of the issue of just compensation or otherwise.

B. No order shall be made nor any injunction awarded by any court to stay the petitioner in the prosecution of its work unless it is manifest that the petitioner or its agents are transcending their authority and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

Code 1919, § 4371; Code 1950, § 25-23; 1962, c. 426, § 25-46.25; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-239. Finality of order confirming, altering or modifying report; appeal.

A. The order confirming, altering or modifying the report of just compensation shall be final.

B. Any party aggrieved thereby may apply for an appeal to the Supreme Court and a supersedeas may be granted in the same manner as is now provided by law and the Rules of Court applicable to civil cases. An order setting aside the report and awarding a new trial of the issue of just compensation shall not be a final order for the purposes of appeal.

1962, c. 426, § 25-46.26; 2003, c. [940](#).

§ 25.1-240. Distribution of money paid into court.

A. Upon the award being paid into court and the confirmation of the report in the manner provided in § [25.1-237](#), the interest or estate of the owner or owners in the property taken or damaged shall terminate and they shall have such interest or estate in the fund and any interest accrued thereon so paid into court as they had in the property so taken or damaged. All liens by a deed of trust, judgment or otherwise upon such property or any interest therein shall be transferred to the fund so paid into court. If the court is satisfied that the persons having an interest therein are before the court, the court shall make such distribution of such money and any interest accrued thereon as to it may seem proper, having due regard to the interest of all persons therein, and in what proportions such money is properly payable.

B. If it appears from the record in the proceedings or otherwise that the person or persons or classes of persons in the proceedings are vested with the superior right or claim of title in the land or estate or interest therein condemned, or in the proceeds of the award of just compensation, and that the record

does not disclose any denial or dispute thereof, by any person or party in interest, the court may direct that the fund and any interest accrued thereon, after the payment therefrom of any taxes, be disbursed and distributed accordingly among the persons entitled thereto or to such person who they may by writing direct.

C. Notwithstanding the provisions of subsection B, the court may inquire into the rights or claims of any persons appearing to be infants, incapacitated or under any other legal incapacity, independent of any statement in the record.

D. Any order for distribution shall conserve and protect the rights of such parties in and to the fund and any interest accrued thereon.

E. The cost of a commissioner in chancery appointed by the court to assist in making the proper distribution in cases of legal disability as herein set forth may be taxed as a cost of the proceedings, to be paid by the petitioner.

Code 1919, § 4374; 1942, p. 339; Code 1950, § 25-26; 1962, c. 426, § 25-46.28; 1964, c. 590; 1979, c. 494; 1997, c. [801](#); 2003, c. [940](#).

§ 25.1-241. Hearing on controversy among claimants to money paid into court.

A. If it appears to the court that there exists a controversy among claimants to the fund and any interest accrued thereon, or to the ownership of the property subject to the condemnation, the court shall enter an order setting a time for hearing the case and determining the rights and claims of all persons entitled to the fund or to any interest or share therein.

B. In order to enable the court to determine the proper disposition of the fund and any interest accrued thereon, the court may, for good cause shown, appoint a commissioner in chancery to take evidence upon the conflicting claims. If the fund, exclusive of interest, is \$500 or more, the costs incident to or arising out of a trial or a determination of such issues or out of a determination of the ownership of the fund and any interest accrued thereon or the distribution thereof shall not be taxed against the petitioner. If the fund, exclusive of interest, is less than \$500, such costs shall be taxed against the petitioner.

C. Upon a determination by the court of the rights and claims of the persons entitled to the fund and any interest accrued thereon, an order shall be entered directing the disbursement among the persons entitled thereto or to whomsoever they may by writing direct. Any party aggrieved thereby may apply for an appeal as provided in subsection B of § [25.1-239](#).

Code 1919, § 4374; 1942, p. 339; Code 1950, § 25-26; 1962, c. 426, § 25-46.28; 1964, c. 590; 1979, c. 494; 1997, c. [801](#); 2003, c. [940](#); 2005, c. [885](#).

§ 25.1-242. Appointment of other body to determine just compensation when new trial ordered; costs of new trial.

A. If (i) the body determining just compensation fails to report its award of just compensation within a reasonable time after the issue of just compensation is submitted to it; (ii) the body determining just

compensation reports that it is unable to make such award; (iii) the body's report is set aside; or (iv) a final order upon its report has been set aside upon appeal and a new trial ordered, the court shall, without further notice, as often as seems to it proper, appoint another body to determine just compensation of the same type as the preceding body, and the matter shall proceed as prescribed in this chapter.

B. If a new trial of the issue of just compensation is ordered, either in the trial court or upon appeal, upon an exception by an owner with respect to the insufficiency of the award of just compensation, and the subsequent report of the award of just compensation, which is confirmed, is for the same or a lesser total amount, the court shall (i) tax all the costs of the new trial against the owner making such exception and (ii) order repayment to the petitioner of any sum paid to such owner out of the fund paid into court by the petitioner in excess of the total sum ascertained by the second report with interest thereon from the date the original payment was made to such owner until the date such excess is repaid to the petitioner. Interest accruing thereon prior to July 1, 1970, shall be paid at the rate of five percent annually; interest accruing thereafter and prior to July 1, 1981, shall be paid at the rate of six percent annually; interest accruing thereafter and prior to July 1, 2003, shall be paid at the rate of eight percent annually; and interest accruing thereafter shall be paid at the general account's primary liquidity portfolio rate, compiled by the Department of the Treasury for the month in which the original payment was made to such owner.

C. If such owner fails to make such repayment within 30 days from the date of the entry of such order, the court shall enter judgment therefor against such owner.

Code 1919, §§ 4372, 4387; 1934, p. 514; Code 1950, §§ 25-22, 25-24; 1962, c. 426, § 25-46.29; 1970, c. 308; 1981, c. 476; 1991, c. 520; 2000, c. [1029](#); 2003, c. [940](#).

§ 25.1-243. Withdrawal pendente lite of money paid into court.

A. At any time after payment into court of the sum ascertained in the report of the award of just compensation, notwithstanding the fact that another trial of the issue of just compensation has been ordered or an appeal has been taken from a final order upon the report as provided in subsection B of [§ 25.1-239](#), a party whose property or interest therein is to be taken or damaged may apply to the court, in the manner provided in this section, for the withdrawal pendente lite of all, or any portion of his pro rata share, of the amount deposited for his interest in the property to be taken or damaged, together with his pro rata share of any interest accrued thereon.

B. If such application requests withdrawal of an amount in excess of 50 percent of such owner's pro rata share of the amount deposited, exclusive of interest, the court may require the applicant, before withdrawing any of such excess, to give or file a bond with the court for the return of the amount withdrawn that exceeds the amount to which the owner is entitled as finally determined in the condemnation proceeding, together with interest from the date of the withdrawal of the amount in excess of 50 percent of such owner's pro rata share of such amount deposited. Such bond shall be with surety approved by the court or clerk, conditioned as required by law to the effect that they are bound to the

petitioner in such amount as fixed by the court, but not to exceed double the amount of such excess. Interest accruing prior to July 1, 1970, shall be paid at the rate of five percent annually; interest accruing thereafter and prior to July 1, 1981, shall be paid at the rate of six percent annually; interest accruing thereafter and prior to July 1, 2003, shall be paid at the rate of eight percent annually; and interest accruing thereafter shall be paid at the general account's primary liquidity portfolio rate, compiled by the Department of the Treasury.

C. Such application shall be verified and shall set forth the owner's interest in the property to be taken or damaged and request withdrawal of a stated amount. A copy of such application for withdrawal shall be served upon the petitioner or its counsel of record. No order permitting such withdrawal shall be entered until at least 21 days after service of such application upon the petitioner without its consent. Within such 21-day period the petitioner may object to such withdrawal by filing written objections thereto with the court on the grounds that the amount of, or the sureties upon the proposed bond are insufficient or that other persons are known or believed to have interests in such property. A copy of any such objections shall be served upon the applicant and such other persons as have appeared or answered, or their attorneys of record.

D. If any person appears and objects to the proposed withdrawal, or if the petitioner so requests, the court shall determine the amount to be withdrawn, if any, and the persons entitled thereto. Upon such determination, no other person so served shall have any claim against the petitioner to the extent of the amount so withdrawn. The court may follow the procedure prescribed in § [25.1-241](#) for the determination of any controversy among any claimants to the funds or to the ownership of the property subject to the condemnation, and may tax the costs thereof as therein provided.

E. If the award that is confirmed finally is for a lesser amount than the amount paid into court, the petitioner shall recover the amount of such excess and, if any person has been paid a greater sum than that to which he is entitled, judgment shall be entered for the petitioner against such person for the amount of such excess and any interest thereon.

F. The amount of the petitioner's deposit under § [25.1-224](#) or § [25.1-237](#) and the amount of such deposit withdrawn by any party in accordance with the provisions of this section shall not be given in evidence or referred to in the trial of the issue of just compensation or be considered by the court or upon appeal in determining whether the award is inadequate or excessive, nor limit the rights of any party to appeal from any decision therein.

1962, c. 426, § 25-46.30; 1970, c. 308; 1979, c. 494; 1981, c. 476; 2003, c. [940](#).

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

A. If the petitioner has exercised pendente lite the right to enter into and take possession of the land or other property, in the manner provided by this chapter, upon the payment into court of the sum ascertained in the report of just compensation as provided in § [25.1-238](#), the owner thereof shall receive interest upon the difference between (i) the amount of just compensation as finally determined and awarded to such owner and (ii) the amount, if any, that such owner received or was entitled to receive

from the fund so paid into court. Such interest shall be paid for the period from the time of such entry by the petitioner until the time the fund paid into court on account of the final award of just compensation to such owner is available for distribution. Interest accruing prior to July 1, 1970, shall be paid at the rate of five percent annually; interest accruing thereafter and prior to July 1, 1981, shall be paid at the rate of six percent annually; interest accruing thereafter and prior to July 1, 2003, shall be paid at the rate of eight percent annually; and interest accruing thereafter shall be paid at not less than the judgment rate of interest as set forth in § [8.01-382](#). No interest shall be payable upon any amount that was withheld from such owner on account of questions involving his right, title, interest or estate in the land or other property taken or damaged.

B. If the petitioner has exercised the right pendente lite to enter into and take possession of the land or other property to be taken or damaged as provided in § [25.1-224](#), the owner thereof shall receive, in addition to the amount that he is entitled to receive under subsection A, interest at the general account's primary liquidity portfolio rate annually upon the difference between (i) the amount of the award of just compensation as finally determined and (ii) the amount previously paid into court as required under § [25.1-224](#). Such interest shall be paid for the period from the time of such entry until payment into court of the sum ascertained in the report of just compensation as provided in § [25.1-237](#).

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

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

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

1962, c. 426, § 25-46.31; 1970, c. 308; 1979, c. 494; 1981, c. 476; 2003, c. [940](#); 2017, c. [710](#).

§ 25.1-245. Repealed.

Repealed by Acts 2020, c. [1244](#), cl. 2.

§ 25.1-245.1. Costs.

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

B. The court may in its discretion tax as a cost a fee, not to exceed \$1,000, for a survey for the landowner.

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

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

E. The requirements of this section shall not apply to those condemnation actions initiated by a public service company, public service corporation, railroad pursuant to the delegation of the power of eminent domain granted in Title 56, or government utility corporation, as defined by § [1-219.1](#), involving easements adjudged at less than \$10,000.

2016, c. [713](#); 2020, c. [1244](#).

§ 25.1-246. When sheriff to remove forcible resistance to entry.

In any case in which the petitioner may be entitled under the laws of this Commonwealth to enter upon property for purposes of making examinations or surveys as are authorized by law, to enter upon property in accordance with the provisions of this chapter, or to condemn any property, the sheriff, whenever required, shall attend and remove, if necessary, any forcible resistance to any such entry or taking.

Code 1919, § 4386; Code 1950, § 25-44; 1962, c. 426, § 25-46.33; 1971, Ex. Sess., c. 155; 2003, c. [940](#).

§ 25.1-247. Recordation of orders, judgments and proceedings; costs.

A. The clerk of the court shall make and certify a copy of so much of the orders, judgments and proceedings in the case as shall show such condemnation, including a plat and description of the property condemned, and any such contract, if any there be, as is mentioned in § [25.1-236](#). The clerk shall record such material in the land records in his office, and index it in the names of the parties.

B. If any portion of the land lies in two or more localities, the clerk shall certify a copy of the proceedings to the clerk of the court of each locality. The clerks shall record and index the copy as provided in subsection A.

C. The fees of the clerk for recording shall be the same as for recording a deed. The fees shall be paid by the petitioner.

Code 1919, § 4381; Code 1950, § 25-38; 1962, c. 426, § 25-46.27; 1991, c. 520; 2003, c. [940](#).

§ 25.1-247.1. Distribution of funds to owner or owner's attorney.

Notwithstanding any other provision of this chapter, upon any settlement or final determination resulting in a judgment for the owner, whether funds have been paid into the court or are outstanding, all

such funds due and owing shall be payable to the owner or, if the owner consents, to the owner's attorney within 30 days of the settlement or final determination, unless otherwise subject to § [25.1-240](#), [25.1-241](#), [25.1-243](#), or [25.1-250](#). Nothing in this section shall be construed to alter the priority of liens or any obligation to satisfy or release any outstanding liens on the property or the funds.

2018, c. [842](#).

Article 8 - DISMISSAL OF PROCEEDINGS

§ 25.1-248. Dismissal of proceedings prior to trial on issue of just compensation.

If a hearing has not begun in the trial of the issue of just compensation for the taking or damaging of property and the petitioner has not already acquired the title or a lesser interest or estate in, or taken possession of, such property, the petitioner may upon motion obtain, as a matter of right, an order dismissing the proceeding as to such property. Such order shall also provide, except as may be provided otherwise in a settlement by agreement of the parties, that the petitioner shall pay such owner or owners their reasonable expenses that have been actually incurred by them in preparing for the trial on the issue of just compensation, in such amounts as the court deems just and reasonable.

Code 1919, § 4387; 1934, p. 514; Code 1950, § 25-22; 1962, c. 426, § 25-46.34; 1972, c. 742; 2003, c. [940](#).

§ 25.1-249. Dismissal of proceedings after commencement of trial on issue of just compensation.

At any time after a hearing has begun in the trial of the issue of just compensation for the taking or damaging of any property or property interest, if the petitioner has not already acquired title or a lesser interest in, or taken possession of, such property, or paid the amount of just compensation into court, and before the time for noting an appeal from any final order upon a report of just compensation, the petitioner may, upon motion, obtain as a matter of right an order dismissing the proceedings as to such property. Such order shall also provide that the petitioner shall pay such owner or owners for the following expenses that have been actually incurred by them in such amounts as the court deems just and reasonable: (i) an attorney's fee; (ii) witness fees, including reasonable fees of not more than three expert witnesses; and (iii) other reasonable expenses and compensation for time spent as a result of the condemnation proceedings. If any such expenses are not paid within 30 days of the entry of such order, judgment therefor shall be entered against the petitioner.

Code 1919, § 4387; 1934, p. 514; Code 1950, § 25-22; 1962, c. 426, § 25-46.34; 1972, c. 742; 2003, c. [940](#).

§ 25.1-250. Effect of failure of petitioner to pay award; expenses.

If the petitioner fails to pay to the parties entitled thereto, or into court, the amount of the award of just compensation before the time for noting an appeal from any final order upon the report of just compensation, the owner or owners of the property to be taken or damaged may, upon motion, obtain as a matter of right an order dismissing the proceeding as to such property. Such order shall also provide that the petitioner shall pay such owner or owners his expenses as provided in § [25.1-249](#). If any such

expenses are not paid within 30 days of the entry of such order, judgment therefor shall be entered against the petitioner.

Code 1919, § 4387; 1934, p. 514; Code 1950, § 25-22; 1962, c. 426, § 25-46.34; 1972, c. 742; 2003, c. [940](#).

§ 25.1-251. Dismissal of proceedings by stipulation of parties; effect of dismissal; dropping parties.

A. Before the vesting of title, or a lesser interest therein in any property in the manner prescribed in this chapter, the proceedings may be dismissed, in whole or in part, as to any such property upon the filing of a stipulation of dismissal by the parties affected thereby. If such parties so stipulate, the court may vacate any order that has been entered.

B. Except as otherwise provided in a stipulation of dismissal or order of the court, any dismissal is without prejudice.

C. The court may at any time drop a defendant unnecessarily or improperly joined.

Code 1919, § 4387; 1934, p. 514; Code 1950, § 25-22; 1962, c. 426, § 25-46.34; 1972, c. 742; 2003, c. [940](#).

Chapter 3 - TRANSFERRING DEFEASIBLE TITLE BY CERTIFICATE

§ 25.1-300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authorized condemnor" means a condemnor that is specifically authorized by law to acquire property through the use of the procedure set forth in this chapter.

"Certificate" means an instrument that, when recorded in the office of the clerk of the circuit court wherein condemnation proceedings are pending or are to be instituted by an authorized condemnor, terminates the interest or estate of the owner of the property described therein and vests defeasible title to such property or interest or estate of the owner in the authorized condemnor. "Certificate" includes a certificate of deposit and a certificate of take.

"Certificate of deposit" means a certificate filed by an authorized condemnor with the court wherein condemnation proceedings are pending or are to be instituted, stating that any sum or sums designated therein shall be paid pursuant to the order of the court, and which is filed in lieu of the payment of funds into court as provided in subdivision A 2 of § [25.1-305](#).

"Certificate of take" means a certificate recorded by an authorized condemnor with the court wherein condemnation proceedings are pending or are to be instituted, in connection with which the authorized condemnor has deposited funds with the court as provided in subdivision A 1 of § [25.1-305](#).

2003, c. [940](#).

§ 25.1-301. Applicability of chapter; purpose.

A. The procedure established by this chapter shall be available for use, at the election of an authorized condemnor, in connection with the acquisition of property by condemnation if the use of the procedure is specifically authorized by law.

B. It is the intention of this chapter to provide that property may, in the discretion of the authorized condemnor, be condemned as provided in this chapter before, during or after the construction of improvements thereon.

2003, c. [940](#).

§ 25.1-302. Protection of property.

Authorized condemnors constructing improvements under the authority of this chapter shall use diligence to protect growing crops and pastures and to prevent damage to any property not taken.

2003, c. [940](#).

§ 25.1-303. Effort to acquire property by purchase.

An authorized condemnor shall comply with the applicable provisions of § [25.1-204](#) and subdivision A 1 of § [25.1-417](#) before exercising its authority to acquire property by condemnation under the procedure set forth in this chapter.

2003, c. [940](#).

§ 25.1-304. Authority to take possession and title to property.

In addition to any authority it has to exercise the power of eminent domain prior to entering upon property being condemned, an authorized condemnor is authorized to acquire title to and to enter upon and take possession of such property for the purposes for which such condemnor is authorized to condemn such property, and proceed with the construction of improvements upon such property, in accordance with the procedures set forth in this chapter.

2003, c. [940](#).

§ 25.1-305. Authorized condemnor to make payment into court or file certificate of deposit before entering upon land.

A. Before entering upon or taking possession of property, the authorized condemnor shall either:

1. Pay into the court wherein condemnation proceedings are pending, or are to be instituted, such sum as is required by subsection B; or
2. File with the court wherein condemnation proceedings are pending, or are to be instituted, a certificate of deposit issued by the authorized condemnor for such sum as is required by subsection B, which shall be deemed and held for the purpose of this chapter to be payment into the custody of such court.

B. The amount to be paid into the court as provided in subdivision A 1 or represented by a certificate of deposit as provided in subdivision A 2 shall be the amount that the authorized condemnor estimates to be the fair value of the land taken, or interest therein sought, and damage done, which estimate

shall be based on a bona fide appraisal if required by § [25.1-417](#); however, such estimate shall not be less than the current assessed value of the land for real estate tax purposes, unless the property has physically changed in a material and substantial way since the current assessment date such that the real estate tax assessment no longer represents a fair valuation of the property, when the entire parcel for which the assessment has been made is to be acquired.

C. If the condemning authority makes a payment into court as provided in subdivision A 1, it shall also record a certificate of take as provided in § [25.1-307](#).

D. Payment against a certificate of deposit, when ordered by the court named therein, shall be paid by the authorized condemnor.

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

2003, c. [940](#); 2013, c. [764](#).

§ 25.1-306. Notice of intent to file certificate.

The authorized condemnor shall, between 30 and 45 days prior to the date on which any certificate will be filed or recorded pursuant to this chapter, give notice to the owner or tenant, if known, of the freehold by certified or registered mail that such certificate will be filed or recorded with respect to such person's property. Additionally, within four business days of the filing or recording of a certificate, the authorized condemnor shall give notice of such filing or recording to the owner or tenant, if known, of the freehold by providing a copy of such certificate by certified or registered mail.

2003, c. [940](#); 2017, c. [563](#).

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

A. A certificate shall set forth the description of the property being taken or damaged, and the owner or owners, if known, of such property.

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

2003, c. [940](#).

§ 25.1-308. Effect of recordation of certificate; transfer of title or interest in property.

A. Upon recordation of a certificate:

1. The interest or estate of the owner of the property described therein shall terminate;
2. The title to such property shall be vested in the authorized condemnor;
3. The owner shall have such interest or estate in the funds deposited with the court or represented by the certificate of deposit as the owner had in the property taken or damaged; and

4. All liens by deed of trust, judgment or otherwise upon such property shall be transferred to such funds.

B. The title in the authorized condemnor shall be defeasible until (i) the authorized condemnor and such owner reach an agreement as provided in § [25.1-317](#), or (ii) the compensation for the taking or damage to the property is determined by condemnation proceedings as provided in § [25.1-313](#).

2003, c. [940](#).

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

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

2003, c. [940](#).

§ 25.1-310. Proceedings for distribution of funds.

A. Any person shown by a certificate to be entitled to funds deposited with the court or represented by a certificate of deposit may petition the court for the distribution of all or any part of the funds. Any costs of filing such petition or otherwise withdrawing the funds shall be taxed against the condemnor.

B. A copy of such petition shall be served on either (i) the attorney of record for the petitioner, if a condemnation proceeding is pending; or (ii) if such a proceeding is not pending, an officer or agent of the authorized condemnor who is authorized to accept service of process in any court proceeding on behalf of the authorized condemnor.

C. The copy of the petition shall be served with a notice returnable to the court not less than 21 days after such service, to show cause, if the authorized condemnor can, why such amount should not be distributed in accordance with the petition.

D. If the authorized condemnor does not, on or before the return day of the petition, show such cause, and if the record in the proceeding does not disclose any denial or dispute with respect thereto, the court shall enter an order directing the distribution of such amount in accordance with the prayers of the petition. However, in the case of a nonresident petitioner the court may in its discretion require a bond before ordering the distribution.

E. If funds have been deposited with the court pursuant to subdivision A 1 of § [25.1-305](#), any interest that has accrued on the funds shall be payable to the person or persons entitled to receive such funds.

F. If funds are not then on deposit with the court but are represented by a certificate of deposit pursuant to subdivision A 2 of § [25.1-305](#), a certified copy of such order shall forthwith be sent to the authorized condemnor by the clerk. The authorized condemnor shall deposit such funds with the court within 30 days of the date of such order.

G. Interest shall be payable on funds represented by a certificate of deposit from the date of filing of the certificate of deposit until the funds are paid into court at no less than the judgment rate of interest

as set forth in § [8.01-382](#). However, interest shall not accrue if an injunction is filed against the authorized condemnor that enjoins the taking of the property described in the certificate.

H. If the authorized condemnor shows such cause, or if the record in the proceeding discloses any denial or dispute as to the persons entitled to such distribution or to any interest or share therein, the court shall direct such proceedings as are provided by § [25.1-241](#) for the distribution of awards.

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

2003, c. [940](#); 2018, c. [842](#); 2020, c. [1245](#).

§ 25.1-311. Effect of acceptance of payments; evidence as to amount of deposit or certificate.

A. The acceptance of payment as provided in § [25.1-310](#) shall not limit the amount to be allowed by the body determining just compensation in a condemnation proceeding, nor limit the rights of any party or parties to the proceeding to appeal from any decision therein.

B. A party to a condemnation proceeding shall not be entitled to introduce evidence of any amount deposited with the court or represented by a certificate, nor of any amount that has been accepted by any party entitled thereto pursuant to § [25.1-310](#).

2003, c. [940](#).

§ 25.1-312. Reformation, alteration, revision, amendment, or invalidation of certificate.

A. No reformation, alteration, revision, amendment, or invalidation shall be made to a recorded certificate for any purpose without the prior consent of the court wherein such certificate is recorded.

B. The court shall have jurisdiction to:

1. Reform, alter, revise, amend, or invalidate, in whole or in part, any certificate; and
2. Correct mistakes in the description of the property affected by such certificate, the name or names of the owner or owners in the certificate, or any other error that may exist with respect to such certificate for any other purpose.

C. A petition filed by the authorized condemnor with the court setting forth any error made in such certificate, or the necessity of any change therein, shall be deemed sufficient basis for the reformation, alteration, revision, amendment, or invalidation in whole or in part of such certificate.

D. The court may enter an order permitting the reformation, alteration, revision, amendment or invalidation, in whole or in part, of the certificate. Such order, together with any revised certificate that may be necessary, shall be recorded in the clerk's office in the same manner required for the recordation of a certificate. The filing of any certificate pursuant to the provisions of this section shall not alter the date of taking as established by the recordation of the original certificate pursuant to § [25.1-307](#) as to any property that is included in the amended certificate. An amended certificate shall not include any property not included in the original certificate.

E. Nothing in this section shall be construed to prohibit or preclude any person from recovering damages in a condemnation proceeding resulting from such reformation, alteration, revision, amendment, or invalidation.

2003, c. [940](#); 2019, c. [788](#).

§ 25.1-313. Institution of condemnation proceedings.

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

2003, c. [940](#); 2017, c. [593](#).

§ 25.1-314. Order confirming award; recordation.

The final order of the court confirming an award of compensation to the owner or owners of property shall confirm in the authorized condemnor absolute and indefeasible title to the property that is the subject of the condemnation proceeding. Such order shall be recorded in the current land records in the office of each clerk of court in which the certificate was recorded.

2003, c. [940](#).

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

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

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

2003, c. [940](#); 2017, c. [710](#).

§ 25.1-316. Awards in lesser amounts than deposit; interest.

If the amount of an award in a condemnation proceeding is less than that deposited with the court or represented by a certificate of deposit, and the person or persons entitled thereto have received a distribution pursuant to [§ 25.1-310](#) of such funds, the authorized condemnor shall recover (i) the amount of such excess and (ii) interest on such excess at the general account's primary liquidity portfolio rate.

If any person has been paid a greater sum than that to which he is entitled as determined by the award, judgment shall be entered for the authorized condemnor against such person for the amount of such excess and interest.

2003, c. [940](#).

§ 25.1-317. Agreements as to compensation; petition and order of court thereon; disposition of funds.

A. At any time after the recordation of a certificate, but prior to the institution of condemnation proceedings, if the authorized condemnor and the owner of the property taken or damaged agree as to compensation for the property taken and damages, if any, caused by such taking, the authorized condemnor shall file with the court a petition so stating. A copy of the agreement shall be attached to the petition. If condemnation proceedings are already pending at the time such agreement is reached, the authorized condemnor shall not be required to file a petition, but shall file a motion to dismiss the condemnation proceedings containing an averment that such agreement has been reached. Upon the filing of such a petition or a motion to dismiss, the court shall enter an order confirming absolute and indefeasible title to the property in the condemning authority, or in the Commonwealth if the condemning authority is an agency of the Commonwealth. Such order shall be recorded in the clerk's office of each court in which the certificate is recorded. Upon entry of such order, the condemning authority shall be relieved of further obligation by virtue of having filed a certificate of deposit with the court.

B. If it shall appear from such petition and agreement, or motion to dismiss a pending suit, that no person other than those executing such agreement are entitled to the funds deposited with the court or represented by a certificate of deposit, the court shall direct that such funds, after payment therefrom of any taxes that may be charged against the property taken, be disbursed and distributed in accordance with the provisions stated in the petition, or motion, among the parties or persons entitled thereto. If it shall appear that a controversy exists as to the persons entitled to such funds, such distribution shall be made in accordance with the provisions of § [25.1-310](#).

2003, c. [940](#).

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

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

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

2. Has not instituted condemnation proceedings within:

- a. Sixty days after completion of the construction of the contemplated improvements upon the property;
- b. One hundred eighty days after the authorized condemnor has entered upon and taken possession of the property, regardless of whether the construction of the contemplated improvements has been completed; or
- c. One hundred eighty days after the recordation of a certificate.

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

2003, c. [940](#); 2006, c. [586](#); 2010, c. [835](#); 2017, c. [593](#).

Chapter 4 - Relocation Assistance and Real Property Acquisition Policies

Article 1 - GENERAL PROVISIONS

§ 25.1-400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Business" means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease and rental of personal and of real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
2. For the sale of services to the public;
3. By a nonprofit organization; or
4. Solely for the purposes of § [25.1-406](#), for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Comparable replacement dwelling" means any dwelling that is (i) decent, safe and sanitary; (ii) adequate in size to accommodate the occupants; (iii) within the financial means of the displaced person; (iv) functionally equivalent; (v) in an area not subject to unreasonable adverse environmental conditions; and (vi) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

"Decent, safe, and sanitary dwelling" means a dwelling that:

1. Is structurally sound, weather tight and in good repair;
2. Has a safe electrical wiring system adequate for lighting and appliances;
3. Contains a heating system capable of maintaining a healthful temperature;
4. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household;
5. Has a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains sink, toilet, and bathing facilities (shower or bath, or both), all operational and connected to a functional water and sewer disposal system;
6. Provides unobstructed egress to safe open space at ground level. If the unit is above the first floor and served by a common corridor, there must be two means of egress; and
7. Is free of barriers to egress, ingress and use by a displaced person who is handicapped.

"Displaced person" means:

1. Any person who moves from real property, or moves his personal property from real property (i) as a direct result of a written notice of intent to acquire or the acquisition of such real property, in whole or in part, for any program or project undertaken by a state agency or (ii) on which such person is a residential tenant or conducts a small business, a farm operation or a business described in clause 4 of the definition of "business" in this section as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent;
2. Solely for the purposes of §§ [25.1-406](#), [25.1-407](#), and [25.1-411](#), any person who moves from real property, or moves his personal property from real property: (i) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a state agency or (ii) as a direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe, of other real property on which such person conducts a business or farm operation, under a program or project undertaken by the state agency in any case in which the state agency determines that such displacement is permanent; and
3. Any person who moves or discontinues his business or moves other personal property, or moves from his dwelling, as the direct result of (i) federally assisted activities for the enforcement of a building code or other similar code or (ii) a program of rehabilitation or demolition of buildings conducted pursuant to a federally assisted governmental program.

The term "displaced person" does not include (i) a person who has been determined, according to criteria established by the state agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this chapter or (ii) in any case where the state agency acquires property for a program or project, any person, other than a

person who was an occupant of the property at the time it was acquired, who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

"Dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house, a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

"Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

"Nonprofit organization" means an organization that is exempt from paying federal income taxes under § 501 of the Internal Revenue Code (26 U.S.C. § 501).

"Person" means any (i) individual or (ii) partnership, corporation, limited liability company, association, or other business entity.

"Uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the state agency has determined has little or no value or utility to the owner.

Code 1950, §§ 33-75.02, 33.1-132.2; 1970, c. 40, § 25-238; 1972, c. 738; 1989, c. 714; 2000, c. [851](#); 2002, c. [878](#); 2003, c. [940](#); 2011, cc. [117](#), [190](#).

§ 25.1-401. Scope of chapter.

A. The provisions of this chapter shall be applicable to the acquisition of real property by any locality defined as a state agency for purposes of this chapter, notwithstanding the provisions of the locality's charter.

B. Subject to the provisions of subsection C, unless compliance with the provisions of this chapter is a prerequisite to the receipt and expenditure of federal funds on the projects for which property is acquired, this chapter shall not apply to acquisitions by a state agency (i) that are voluntarily initiated or negotiated by the seller under no threat of condemnation, (ii) where property is dedicated pursuant to the provisions of Chapter 22 (§ [15.2-2200](#) et seq.) of Title 15.2, or (iii) where property is voluntarily dedicated or donated for no consideration.

C. In the case of transportation projects funded in whole or in part with state or federal funds, unless compliance with the provisions of this chapter would jeopardize the receipt and expenditure of all or a portion of federal funds that would otherwise be available for transportation projects for which property is acquired or for reimbursement of the benefits provided for in this chapter, this chapter shall apply to

acquisitions for such transportation projects by the Department of Transportation and any other state agency that are voluntarily initiated or negotiated by the seller under no threat of condemnation.

1972, c. 738, § 25-236; 1979, c. 235; 2000, c. [851](#); 2003, c. [940](#); 2014, c. [218](#).

§ 25.1-402. Rules and regulations.

All state agencies are hereby authorized to promulgate such rules and regulations as are necessary to carry out the provisions of this chapter.

1972, c. 738, § 25-253; 2003, c. [940](#).

§ 25.1-403. Payments not considered income or resources.

No payment received by a displaced person under this chapter shall be considered as income or resources for the purposes of determining the eligibility or extent of eligibility of any person for assistance under any state law, or for the purposes of this Commonwealth's personal income tax law, corporation tax law, or other tax laws. Such payments shall not be considered as income or resources of any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Code 1950, §§ 33-75.07, 33.1-132.7; 1970, c. 40, § 25-246; 1972, c. 738; 2003, c. [940](#).

§ 25.1-404. Administrative payments; construction.

Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or damage not in existence immediately prior to April 10, 1972.

1972, c. 738, § 25-235.1; 2003, c. [940](#).

§ 25.1-405. Funds for implementing provisions of chapter.

Funds appropriated or otherwise available to any state agency for the acquisition of real property or any interest therein for a particular program or project shall be available also to fund any payment required to implement the provisions of this chapter as applied to that program or project.

1972, c. 738, § 25-244; 2003, c. [940](#).

Article 2 - RELOCATION ASSISTANCE

§ 25.1-406. Moving and related expenses.

Whenever the acquisition of real property for a program or project undertaken by a state agency will result in the displacement of any person, the state agency shall make fair and reasonable relocation payments to the displaced person for:

1. Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;
2. Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, which payments shall not exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state agency;

3. Actual reasonable expenses in searching for a replacement business or farm; and
4. Actual reasonable expenses necessarily incurred in reestablishing a displaced farm, nonprofit organization or small business at its new site, in accordance with criteria established by the state agency but not to exceed \$25,000.

Code 1950, §§ 33-75.04, 33.1-132.4; 1970, c. 40, § 25-239; 1972, c. 738; 1989, c. 714; 2000, c. [851](#); 2003, c. [940](#).

§ 25.1-407. Optional moving expense allowance for persons displaced from dwelling.

Any displaced person eligible for payments under § [25.1-406](#) who is displaced from a dwelling may elect to accept the payments authorized by this section in lieu of the payments authorized by § [25.1-406](#), which displaced person so electing shall receive a moving expense allowance of an amount determined according to a schedule established by the state agency. The acceptance of the payment authorized by this section shall be in lieu of any payment under § [25.1-406](#).

Code 1950, §§ 33-75.04, 33.1-132.4; 1970, c. 40, § 25-239; 1972, c. 738; 1989, c. 714; 2000, c. [851](#); 2003, c. [940](#).

§ 25.1-408. Optional payment for persons displaced from a place of business or farm operation.

Any displaced person eligible for payments under § [25.1-406](#) who is displaced from his place of business or farm operation and who is eligible under criteria established by the state agency may elect to accept the payment authorized by this section in lieu of the payment authorized by § [25.1-406](#). Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the state agency, except that such payment shall not be less than \$1,000 nor more than \$75,000. A person whose sole business at the displacement site is the rental of such property to others shall not qualify for a payment under this section. The acceptance of the payment authorized by this section shall be in lieu of any payment under § [25.1-406](#).

Code 1950, §§ 33-75.04, 33.1-132.4; 1970, c. 40, § 25-239; 1972, c. 738; 1989, c. 714; 2000, c. [851](#); 2003, c. [940](#); 2006, c. [452](#).

§ 25.1-409. Replacement housing for homeowners.

A. In addition to payments otherwise authorized by this chapter, the state agency shall make an additional payment not to exceed \$31,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 90 days before the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

1. The amount, if any, that when added to the acquisition cost of the dwelling acquired by the state agency, equals the reasonable cost of a comparable replacement dwelling;
2. The amount, if any, that will compensate the displaced person for any increased interest costs and other debt service costs that such person is required to pay for financing the acquisition of any comparable replacement dwelling. The amount for any increased interest or debt service costs shall be (i)

determined in accordance with the criteria established by the state agency and (ii) paid only if the dwelling acquired by the state agency was encumbered by a bona fide mortgage that was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling; and

3. Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the comparable replacement dwelling, but not including prepaid expenses.

B. The additional payment authorized by this section shall be made only to such a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling not later than the end of the one-year period beginning on the later of (i) the date on which he receives final payment of all costs for the acquired dwelling or (ii) the date on which the state agency obligation under § [25.1-414](#) is met. However, the state agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the cost of relocating the person to a comparable replacement dwelling within one year of such date.

Code 1950, §§ 33-75.05, 33-75.06, 33.1-132.5, 33.1-132.6; 1970, c. 40, § 25-240; 1972, c. 738; 1989, c. 714; 2003, c. [940](#); 2014, c. [218](#).

§ 25.1-410. Replacement housing for tenants.

A. In addition to amounts otherwise authorized by this article, a state agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under § [25.1-409](#) which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (i) the initiation of negotiations for acquisition of the dwelling or (ii) if the displacement is not a direct result of acquisition, such other event as the state agency shall prescribe. Such payment shall consist of the amount necessary to enable such displaced person to lease or rent, for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed \$7,200. At the discretion of the state agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

B. Any person eligible for a payment under subsection A may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the state agency, be eligible under this subsection for the maximum payment allowed under subsection A.

1972, c. 738, § 25-241; 1989, c. 714; 2003, c. [940](#); 2011, cc. [117](#), [190](#); 2014, c. [218](#).

§ 25.1-411. Relocation planning, assistance coordination, and advisory services.

A. Programs or projects undertaken by a state agency shall be planned in a manner that (i) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (ii) provides for the resolution of such

problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

B. The state agency shall ensure that the relocation assistance advisory services described in subsection C are made available to all persons displaced by the state agency. If the state agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer such person relocation advisory services under such program.

C. Each relocation assistance advisory program required by subsections A and B shall include such measures, facilities, or services as may be necessary or appropriate in order to:

1. Determine, and make timely recommendations on, the need and preferences, if any, of displaced persons for relocation assistance;
2. Provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;
3. Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of (i) a major disaster declared by the Governor; (ii) a national emergency declared by the President of the United States; or (iii) any other emergency that requires the person to move immediately from the dwelling because continued occupancy of such dwelling by such person constitutes a substantial danger to the health or safety of such person;
4. Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;
5. Supply information concerning federal and state housing programs, disaster loan programs, and other federal or state programs offering assistance to displaced persons; and
6. Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

D. The head of a state agency shall coordinate the relocation activities performed by the state agency with other project activities and other planned or proposed governmental actions in the community or nearby areas that may affect the efficient and effective delivery of relocation assistance and related services.

Code 1950, §§ 33-75.03, 33.1-132.3; 1970, c. 40, § 25-242; 1972, c. 738; 1989, c. 714; 2003, c. [940](#); 2011, cc. [117](#), [190](#).

§ 25.1-412. Administration of relocation assistance programs.

In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, a state agency may

enter into contracts with any person for services in connection with such programs, or may carry out its functions under this chapter through any federal or state agency or instrumentality having an established organization for conducting relocation assistance programs.

Code 1950, §§ 33-75.03, 33.1-132.3; 1970, c. 40, § 25-243; 1972, c. 738; 2003, c. [940](#).

§ 25.1-413. Payments to certain persons displaced as the result of certain code enforcement activities.

Notwithstanding any other provision of this article, the governing body of a locality shall be authorized to make payments to any displaced person who is displaced by nonfederally assisted housing, plumbing, building, electrical, elevator, fire, food and health and sanitation code enforcement activities, in its discretion either (i) in amounts not exceeding the amounts authorized by the provisions of this chapter or (ii) in such lesser amounts as it may determine. Localities may adopt policies and procedures for payments to be made to persons displaced by such nonfederally assisted programs.

1972, c. 738, § 25-245; 1973, c. 426; 2003, c. [940](#).

§ 25.1-414. Authority of state agency where replacement housing not available; requiring person to move.

A. If a program or project undertaken by a state agency cannot proceed to actual construction on a timely basis because comparable replacement dwellings are not available, and the state agency determines that such dwellings cannot otherwise be made available, the state agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The state agency may use this section to exceed the maximum amounts that may be paid under §§ [25.1-409](#) and [25.1-410](#) on a case-by-case basis for good cause as determined in accordance with such regulations as the state agency shall issue.

B. No person shall be required to move from his dwelling on account of any project, unless the head of the state agency is satisfied that comparable replacement housing is available to such person.

1972, c. 738, § 25-247; 1989, c. 714; 2003, c. [940](#); 2011, cc. [117](#), [190](#).

§ 25.1-415. Adjustments to certain benefit limits.

The monetary limits provided for in §§ [25.1-406](#), [25.1-408](#), [25.1-409](#), and [25.1-410](#) shall be adjusted to conform to future revisions of corresponding monetary benefits under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646).

1981, c. 149, § 25-247.1; 2003, c. [940](#).

§ 25.1-416. Application of article.

The provisions of this article shall apply for the benefit of (i) owners and (ii) other persons who are actually and lawfully occupying the real property to be acquired and who have been occupants thereof for at least 90 days prior to the initiation of negotiations for acquisition.

1972, c. 738, § 25-236; 1979, c. 235; 2000, c. [851](#); 2003, c. [940](#).

Article 3 - REAL PROPERTY ACQUISITION POLICIES

§ 25.1-417. General provisions for conduct of acquisition.

A. If a state agency acquires real property in connection with any programs or projects, such acquisition shall be conducted, to the greatest extent practicable, in accordance with the following provisions:

1. The state agency shall make every reasonable effort to acquire expeditiously real property by negotiation.
2. Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property; however, the requirements of this subdivision shall not apply if the state agency's official who is responsible for the acquisition determines that the value of the property being acquired is less than \$25,000, based on assessment records or other objective evidence. Whenever the value of the property being acquired is determined to be between \$10,000 and \$25,000, the state agency, at the time an offer is made initiating negotiations, shall disclose to the owner or his designated representative that the offer has been established based on assessment records or other objective evidence and not an appraisal and that he may request that an appraisal be prepared and used as the basis for establishing just compensation pursuant to this section.
3. Before making an offer to acquire or initiating any related negotiations for real property, the state agency shall establish an amount which it believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the state agency's approved appraisal of the fair market value of such property, if such an appraisal is required, or the current assessed value of such property for real estate tax purposes, unless the property has physically changed in a material and substantial way since the current assessment date such that the real estate tax assessment no longer represents a fair valuation of the property, when the entire parcel for which the assessment is made is to be acquired, whichever is greater. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The state agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation and, if an appraisal is required or obtained, such written statement and summary shall include a complete copy of all appraisals of the real property to be acquired that the state agency obtained prior to making an offer to acquire or initiating any related negotiations for the real property. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

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

5. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation, without at least 90-days' written notice from the state agency, of the date by which such move is required.

6. If the state agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term for a period subject to termination by the state agency on a short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

7. In no event shall the state agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

8. If any interest in real property is to be acquired by exercise of the power of eminent domain, the state agency shall institute formal condemnation proceedings. No state agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

9. If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the state agency concerned shall offer to acquire the entire property.

10. A person whose real property is being acquired in accordance with this article may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, and part thereof, any interest therein, or any compensation paid therefor to a state agency, as such person shall determine.

B. The provisions of this section create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

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

1972, c. 738, §§ 25-235.1, 25-248; 2000, cc. [851](#), [1029](#); 2001, c. [260](#); 2003, c. [940](#); 2011, cc. [117](#), [190](#), [335](#); 2013, c. [764](#).

§ 25.1-417.1. Expired.

Expired.

§ 25.1-418. Reimbursement of owner for certain expenses.

Any state agency acquiring real property in connection with any program or project, as soon as practicable after the first to occur of the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, shall reimburse the owner, to the extent the state agency deems fair and reasonable, for expenses he necessarily incurred for (i) recording fees, transfer taxes and similar expenses incidental to conveying such real property to the state agency; (ii) penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering such real property; and (iii) the pro rata portion of real property taxes paid that are allocable to a period subsequent to the first to occur of the date of vesting title in the state agency or the effective date of possession of such real property by the state agency.

Code 1950, §§ 33-75.06, 33.1-132.6; 1970, c. 40, § 25-249; 1972, c. 738; 2003, c. [940](#).

§ 25.1-419. Reimbursement of owner for costs when taking is abandoned or denied.

The court in which a condemnation proceeding is instituted by a state agency to acquire real property by condemnation shall award the owner of any right, title, or interest in such real property such sum as will, in the opinion of the court, reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if (i) the final judgment is that the state agency cannot acquire the real property by condemnation or (ii) the taking is abandoned by the state agency, in full or in part. The award of such sums shall be paid by the state agency that sought to condemn the property.

1972, c. 738, § 25-250; 2003, c. [940](#); 2019, c. [788](#).

§ 25.1-420. Reimbursement of owner for costs incurred in inverse condemnation proceeding.

If a declaratory judgment proceeding is instituted pursuant to § [8.01-187](#) by the owner of any right, title or interest in real property because of use of his property in any program or project undertaken by a state agency, and either (i) the court renders a judgment for the plaintiff in such proceeding and awards compensation for the damaging or taking of property or (ii) the Attorney General effects a settlement of any such proceeding in which the Commonwealth is a party, the court or Attorney General, as appropriate, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or the Attorney General, as the case may be, reimburse such plaintiff for his reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding.

1972, c. 738, § 25-251; 2003, c. [940](#); 2017, c. [735](#).

§ 25.1-421. Buildings, structures and other improvements on real property.

A. To the greatest extent practicable, where an interest in real property is acquired by a state agency, the state agency shall acquire an equal interest in all buildings, structures, or other improvements

located upon the real property so acquired and that are required to be removed from such real property so acquired and that are determined to be adversely affected by the use to which such real property will be put.

B. For the purpose of determining the just compensation to be paid for any building, structure or other improvement required to be acquired as provided in subsection A, such building, structure or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure or improvement at the expiration of his term. In such event, the tenant shall be paid an amount equal to the greater of (i) the fair market value that such building, structure or improvement contributes to the fair market value of the real property to be acquired or (ii) the fair market value of such building, structure or improvement to be removed from the real property.

C. Payment for such building, structures or improvements as set forth in subsections A and B shall not result in duplication of any payments otherwise authorized by other laws of the Commonwealth. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer and release all his right, title and interest in and to such improvements. Nothing with regard to such acquisition of buildings, structures or other improvements shall be construed to deprive the tenant of any rights to reject payment under this section and to obtain payment for such property interests in accordance with other laws of the Commonwealth.

D. The provisions of this section create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

1972, c. 738, §§ 25-235.1, 25-252; 2003, c. [940](#).