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SENATE BILL NO. 452**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice
on February 2, 2000)

(Patron Prior to Substitute—Senator Marye)

A *BILL* to amend the Code of Virginia by adding a section numbered 33.1-95.1, relating to Commonwealth Transportation Commissioner; eminent domain.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 33.1-95.1 as follows:**

§ 33.1-95.1. Notice of exercise of eminent domain power; evidence of value.

Notwithstanding anything to the contrary contained in this chapter or in Chapter 1.1 (§ 25-46.1 et seq.) of Title 25:

1. The Commonwealth Transportation Commissioner shall notify every owner of a building, structure or other improvement, as defined in this section, if the Commissioner intends to exercise the power of eminent domain in a manner that would result in a taking of the building, structure or other improvement;

2. The owner of such building, structure or other improvement shall be authorized to present evidence of the fair market value in such building, structure or other improvement in the proceedings described in § 25-46.21, provided such owner has filed a petition for intervention pursuant to § 25-46.16;

3. For purposes of this section, owner shall be defined as any person owning an estate or interest in buildings, structures or other improvements on real property, and shall not include trustees or beneficiaries under a deed of trust or any person owning only a security interest in the real property, which estate or interest is recorded in the official records of the circuit court where the property is located, or improvements for which a permit has been issued by the Commonwealth Transportation Commissioner pursuant to § 33.1-360;

4. For purposes of this section, fair market value is the price that the real property would bring if it were offered for sale by one who wanted to sell, but was under no necessity, and was bought by one who wanted to buy, but was under no necessity; and

5. If the owner of such building, structure or improvement is different from the owner of the underlying land then such owner shall not be allowed to proffer any evidence of value which the owner of the underlying land would not be permitted to proffer if the building, structure or improvement were owned by the owner of the underlying land.