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**HOUSE BILL NO. 982**

Offered January 9, 2002

Prefiled January 9, 2002

*A BILL to amend and reenact § 25-232.01 of the Code of Virginia, relating to the condemnation of tidal and nontidal wetlands for the purposes of compensation for wetlands impacts.*

Patrons—Pollard, Armstrong, Bland, Crittenden and Van Yahres; Senator: Chichester

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:****1. That § 25-232.01 of the Code of Virginia is amended and reenacted as follows:**

§ 25-232.01. Condemnation by localities and state institutions.

A. The Commonwealth Transportation Board, the Breaks Interstate Park Commission, any state institution, or the governing body of any county, city or town may acquire by condemnation title to (i) land, buildings and structures, (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 if the terms of purchase cannot be agreed upon or the owner (i) is unknown, (ii) cannot with reasonable diligence be found in the Commonwealth or (iii) due to incapacity cannot negotiate an agreement. Condemnation proceedings shall be conducted under the provisions of Chapter 1.1 (§ 25-46.1 et seq.) of this title insofar as applicable.

The location of all roads to be constructed with both state aid and county or district funds shall first be approved by the appropriate local county road authorities.

B. Upon compliance with the provisions of Chapter 1.1 of this title insofar as applicable, cities and towns may acquire by condemnation any lands or rights-of-way necessary for providing watersheds or for laying water pipes, and counties may so acquire such lands or rights-of-way within their borders. Any interest acquired under this section by a county, city or town shall be subject to the provisions of § 25-233.

C. *The Commonwealth shall not acquire by condemnation title to tidal or nontidal wetlands, for the purpose of compensation for tidal and nontidal impacts, unless it has exhausted all other reasonable wetlands mitigation options, including but not limited to the purchase in fee simple of suitable land from a willing seller or the use of mitigation banking credits as provided in § 33.1-223.2:1, first within the same cataloguing unit, as defined by the Hydrologic Unit Map of the United States (U.S.G.S. 1980), in which the wetlands loss occurs, or if such efforts prove ineffectual, then within the immediately adjacent cataloguing unit or units in the same river watershed as the impacted wetlands.*

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