

# 2003 SESSION

INTRODUCED

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## HOUSE BILL NO. 1946

Offered January 8, 2003

Prefiled January 7, 2003

*A BILL to amend and reenact §§ 33.1-127 and 33.1-132 of the Code of Virginia, relating to eminent domain proceedings by the Commonwealth Transportation Commissioner; delays in instituting condemnation proceedings.*

Patron—Drake

Referred to Committee on Transportation

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

#### **1. That §§ 33.1-127 and 33.1-132 of the Code of Virginia are amended and reenacted as follows:**

§ 33.1-127. When condemnation proceedings instituted; payment of compensation or damages; order confirming award; recording.

~~At any time~~ *Within 30 days* after the recordation of such certificate, ~~but within sixty days after the completion of the construction of such highway,~~ if the Commissioner and the owner or owners of such lands or interest therein taken or damaged by the Commissioner are unable to agree as to the compensation or damages, if any, caused thereby, or such consent cannot be obtained due to the incapacity of the owners or ~~one~~ *1* or more of them, or because such owner, or owners, be unknown or cannot with reasonable diligence be found within this Commonwealth, the Commissioner shall institute condemnation proceedings, as provided in this article, unless said proceedings shall have been instituted prior to the recordation of such certificate. The amount of such compensation and damages, if any, awarded to the owner or owners in such proceedings shall be paid out of the appropriations to the Virginia Department of Transportation. The final order confirming the Commissioner's award shall confirm absolute and indefeasible title to the land, or interest therein sought, in the Commonwealth and shall be spread in the current deed book.

§ 33.1-132. Remedy of landowners under certain conditions.

Whenever the Commissioner enters upon and takes possession of property under the provisions of §§ 33.1-119 through 33.1-121 and has not ~~completed the construction of the highway project after a reasonable time for such purpose has elapsed or has not~~ instituted condemnation proceedings within ~~sixty~~ *30* days after ~~completion of the construction of the highway project, or within one year after he has entered upon and taken possession of the property~~ *the recordation of a certificate as required by § 33.1-127*, whether the construction of the highway project has been completed or not, the property owner may, if no agreement has been made with the Commissioner as to compensation and damage, if any, petition the circuit court of the county or the court of the city in which such cases are tried, and in which the greater portion of the property lies, or the judge thereof in vacation, for the appointment of commissioners to determine just compensation for the property taken and damages done, if any. A copy of such petition shall be served upon the Commissioner at least ~~ten~~ *10* days before it is presented to the court, or the judge thereof in vacation, and the Commissioner shall file an answer thereto within ~~five~~ *5* days after the petition is so presented. If it be found by the court, or the judge thereof in vacation, that a reasonable time has elapsed for the completion of the construction of the highway project or that ~~sixty~~ *60* days have elapsed since the completion of the construction of the highway project or that more than ~~one~~ *1* year has elapsed since the Commissioner entered upon and took possession of the property, without condemnation proceedings being instituted and without an agreement having been made between the property owner and the Commissioner as to compensation and damages, if any, commissioners shall be appointed 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 1.1 (§ 25-46.1 et seq.) of Title 25 insofar as the same may be applicable.

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