

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 33.1-120 of the Code of Virginia, relating to allowing the owner of*  
 3 *property condemned by the Commonwealth Transportation Commissioner to receive payment before*  
 4 *the owner is forced to vacate.*

5 [H 834]

6 Approved

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

8 **1. That § 33.1-120 of the Code of Virginia is amended and reenacted as follows:**

9 § 33.1-120. Payments into court or filing certificate of deposit before entering upon land.

10 A. Before entering upon, or taking possession of land pursuant to § 33.1-119, the Commissioner shall  
 11 either:

12 1. Pay into the court wherein condemnation proceedings are pending, or are to be instituted such sum  
 13 as is required by subsection B; or

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

17 B. The amount to be paid into the court as provided in subdivision A 1 or represented by a  
 18 certificate of deposit as provided in subdivision A 2 shall be the amount that the Commissioner  
 19 estimates to be the fair value of the land taken, or interest therein sought, and damage done, which  
 20 estimate shall be based on a bona fide appraisal if required by § 25.1-417.

21 C. If the Commissioner makes a payment into court as provided in subdivision A 1, it shall also  
 22 record a certificate of take pursuant to § 33.1-122.

23 D. Payment against a certificate of deposit, when ordered by the court named therein, shall be paid  
 24 by the Commissioner.

25 E. As used in this article:

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

31 "Certificate of deposit" means a certificate issued by the Commonwealth Transportation  
 32 Commissioner and countersigned by the State Treasurer, stating that any sum or sums designated therein  
 33 shall be paid pursuant to the order of the court, and which is filed by the Commissioner with the court  
 34 wherein condemnation proceedings are pending or are to be instituted in lieu of the payment of funds  
 35 into court, as provided in subdivision A 2.

36 "Certificate of take" means a certificate recorded by the Commissioner with the court wherein  
 37 condemnation proceedings are pending or are to be instituted, in connection with which the  
 38 Commissioner has deposited funds with the court as provided in subdivision A 1.

39 *F. The Commissioner shall not be permitted to force relocation on improved owner-occupied*  
 40 *property until the owner is permitted to withdraw the funds represented by the certificate filed with the*  
 41 *court. However, if the owner refuses to withdraw the funds represented by the certificate filed with the*  
 42 *court or if the Commissioner reasonably believes that the owner does not possess clear title to the*  
 43 *property being taken, that ownership of the property is disputed, or that certain owners cannot be*  
 44 *located, the Commissioner may petition the court to establish that the owner does not possess clear title,*  
 45 *that the ownership of the property is in dispute, that certain owners can not be located, or that the*  
 46 *owner has refused to withdraw the funds represented by the certificate filed with the court, and request*  
 47 *that the Commissioner be given authority to force relocation.*

ENROLLED

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