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HOUSE BILL NO. 956

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact §§ 15.2-1800 and 15.2-1814 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 1-237.1, and to repeal § 15.2-1900 of the Code of Virginia, relating to definition of public uses.

Patron—Joannou

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1800 and 15.2-1814 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 1-237.1 as follows:

§ 1-237.1. Public uses.

"Public uses," as mentioned in Article I, Section 11 of the Constitution of Virginia, is hereby defined to embrace uses of property where, following its acquisition by exercise of the power of eminent domain, (i) the ownership, possession, occupation, and enjoyment of the property shall be by the Commonwealth or by a political subdivision thereof or (ii) the public at large shall have the legal right to use the property, including use of the property by a public utility that is accountable to the public in its use of the property.

§ 15.2-1800. Purchase, sale, etc., of real property.

A. A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use. Acquisition of any interest in real property by condemnation is governed by Chapter 19 (~~§ 15.2-1900~~ 15.2-1901 et seq.). The acquisition of a leasehold or other interest in a telecommunications tower, owned by a nongovernmental source, for the operation of a locality's wireless radio communications systems shall be governed by this chapter.

B. Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property, which includes the superjacent airspace (except airspace provided for in § 15.2-2030) which may be subdivided and conveyed separate from the subjacent land surface, provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal. However, the holding of a public hearing shall not apply to (i) the leasing of real property to another public body, political subdivision or authority of the Commonwealth or (ii) conveyance of site development easements across public property, including but not limited to, easements for ingress, egress, utilities, cable, telecommunications, storm water management, and other similar conveyances, that are consistent with the local capital improvement program, involving improvement of property owned by the locality. The provisions of this section shall not apply to the vacation of public interests in real property under the provisions of Articles 6 (§ 15.2-2240 et seq.) and 7 (§ 15.2-2280 et seq.) of Chapter 22 of this title.

C. A city or town may also acquire real property for a public use outside its boundaries; a county may acquire real property for a public use outside its boundaries when expressly authorized by law.

D. A locality may construct, insure and equip buildings, structures and other improvements on real property owned or leased by it.

E. A locality may operate, maintain and regulate the use of its real property or may contract with other persons to do so.

F. This section shall not be construed to deprive the resident judge or judges of the right to control the use of the courthouse.

G. "Public use" as used in this section shall have the same meaning as in ~~§ 15.2-1900~~ 1-237.1.

§ 15.2-1814. Acquisition authorized by chapter declared to be for public use.

Any acquisition of property authorized by any provision of this chapter is hereby declared to be for a public use as the term "public uses" is used in ~~§ 15.2-1900~~ 1-237.1.

2. That § 15.2-1900 of the Code of Virginia is repealed.

INTRODUCED

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