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SENATE BILL NO. 77

Offered January 9, 2008

Prefiled December 26, 2007

A BILL to amend and reenact § 25.1-108 of the Code of Virginia, relating to eminent domain; offer of repurchase to former owner.

Patrons—Cuccinelli; Delegates: Bulova and Marsden

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 25.1-108 of the Code of Virginia is amended and reenacted as follows:

§ 25.1-108. Offer of repurchase to former owner.

A. If a condemnor has acquired ~~a fee simple~~ *an* interest in property by exercise of its power of eminent domain and subsequently declares that the property is surplus, the condemnor shall offer, within 30 days following such determination, to sell such property to the former owner or his heirs or other successors or assigns of record. Upon completion of the stated public use or where the stated public use has been abandoned, the condemnor shall provide written notice, pursuant to subsection B, of such completion or abandonment to the former property owner or his heirs or other successors or assigns of record. Upon completion of the stated public use or where the stated public use has been abandoned, the former property owner or his heirs or other successors or assigns of record may make a written demand that the condemnor declare any excess property as surplus. The right to the offer of repurchase cannot be waived and any contractual provision or agreement waiving such right is void and unenforceable. The offer to sell shall be made by the condemnor at the price paid by the condemnor to the former owner plus interest at the annual rate of six percent; provided that the condemnor may increase the price by the fair market value of the condemnor's improvements, determined at the time the offer to sell is made. In no case shall the price established by the condemnor exceed the fair market value of the property at the time the offer to sell is made. If no written response is received by the condemnor from the former owner within 90 days after the offer to sell has been made, the former owner shall be deemed to have waived his right to the offer of repurchase.

B. Notice of the offer to repurchase shall be sent by certified mail to (i) the last known address of the former owner and (ii) the address of the last owner of record as it appears in the tax records of the local treasurer.

C. This section shall not apply to property acquired by the Commonwealth Transportation Commissioner pursuant to Title 33.1.

INTRODUCED