

# VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

## CHAPTER 53

*An Act to amend and reenact § 33.1-128 of the Code of Virginia, relating to awards made resulting from a condemnation proceeding in which the amounts are greater or lesser than the amount deposited.*

[S 405]

Approved March 8, 2010

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

**1. That § 33.1-128 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-128. Awards in greater or lesser amounts than deposit; interest.

A. If the amount of an award in a condemnation proceeding is greater than that deposited with the court or represented by a certificate of deposit, the excess amount, together with interest accrued on such excess amount, shall be paid into court for the person or persons entitled thereto.

B. Interest shall accrue on the excess amount at the rate of interest established pursuant to § 6621 (a) (2) of the Internal Revenue Code (as such section may be amended from time to time), compiled by the Virginia Department of the Treasury of Virginia Transportation for the month in which the award is rendered, computed from the date of such deposit to the date of payment into court and be paid into court for the person or persons entitled thereto. However, any (i) interest that accrued before July 1, 1970, shall be paid at the rate of five percent; (ii) interest accruing thereafter and prior to July 1, 1981, shall be paid at the rate of six percent; (iii) interest accruing thereafter and prior to July 1, 1994, shall be paid at the rate of eight percent; and (iv) interest accruing thereafter and prior to July 1, 2003, shall be paid at the general account composite rate, compiled by the Department of the Treasury of Virginia for the month in which the award is rendered.

C. If the amount of an award in a condemnation proceeding is less than that deposited with the court or represented by a certificate of deposit, and the person or persons entitled thereto have received a distribution of the funds pursuant to § 33.1-124, the Commissioner shall recover (i) the amount of such excess and (ii) interest on such excess at the rate of interest established pursuant to § 6621 (a) (2) of the Internal Revenue Code (as such section may be amended from time to time). If any person has been paid a greater sum than that to which he is entitled as determined by the award, judgment shall be entered for the Commissioner against such person for the amount of such excess and interest. However, the Commissioner shall not be entitled to recover the amount of such excess and interest in the event the Commissioner acquired, by virtue of the certificate, an entire parcel of land containing a dwelling, multiple family dwelling or building used for commercial purposes at the time of initiation of negotiations for the acquisition of such property.