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HOUSE JOINT RESOLUTION NO. 115

Offered January 13, 2010

Prefiled January 13, 2010

Proposing an amendment to Section 11 of Article I of the Constitution of Virginia, relating to takings of private property.

Patrons—Joannou, Barlow, Byron, Cline, Cosgrove, Cox, M.K., Griffith, Howell, W.J., Johnson, Jones, Landes, Marshall, D.W., Marshall, R.G., Morgan, Nixon, Oder, Phillips, Purkey, Putney, Spruill, Tata, Villanueva and Ware, R.L.; Senators: Quayle and Stuart

Referred to Committee on Privileges and Elections

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 11 of Article I of the Constitution of Virginia as follows:

ARTICLE I

BILL OF RIGHTS

Section 11. Due process of law; obligation of contracts; taking of private property; prohibited discrimination; jury trial in civil cases.

That no person shall be deprived of his life, liberty, or property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts; ~~nor any law whereby private property shall be taken or damaged for public uses, without just compensation, the term "public uses" to be defined by the General Assembly;~~ and that the right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be abridged, except that the mere separation of the sexes shall not be considered discrimination.

That in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred. The General Assembly may limit the number of jurors for civil cases in courts of record to not less than five.

That the General Assembly shall not pass any law whereby private property shall be taken or damaged without just compensation; nor shall it pass any law whereby private property, the right to which is fundamental, shall be taken except for a public use. A taking of private property is for a public use only if the property (i) will be owned, occupied, and enjoyed by the public or by the Commonwealth, a political subdivision thereof or municipal corporation therein; (ii) will be used for the construction, maintenance, or operation of public facilities; (iii) will be used in the provision of an authorized service by a public service corporation or public service company, including a common carrier, to which the power of eminent domain has been delegated, or by a political subdivision of the Commonwealth or municipal corporation therein or agency thereof authorized to provide a utility service; or (iv) is taken in order to eliminate the existence thereon of a public nuisance or other existing condition that renders the property unfit for its intended use and a threat to public health or safety. A taking of private property is not for a public use if the primary purpose of the property's acquisition is to increase tax base, tax revenues, or employment or otherwise to facilitate economic development.

INTRODUCED

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