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HOUSE BILL NO. 1693

Offered January 12, 2011

Prefiled January 10, 2011

A *BILL to amend and reenact § 25.1-417 of the Code of Virginia, relating to eminent domain; general provisions for conduct of acquisition.*

Patron—Athey

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 25.1-417 of the Code of Virginia is amended and reenacted as follows:**

§ 25.1-417. General provisions for conduct of acquisition.

A. If a state agency acquires real property in connection with any programs or projects, such acquisition shall be conducted, to the greatest extent practicable, in accordance with the following provisions:

1. The state agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

2. Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property; however, the requirements of this subdivision shall not apply if the state agency's official who is responsible for the acquisition determines that the value of the property being acquired is less than ~~\$10,000~~ \$25,000, based on assessment records or other objective evidence. *Whenever the value of the property being acquired is determined to be between \$10,000 and \$25,000, the owner or his designated representative may request that an appraisal be prepared and used as the basis for establishing just compensation pursuant to this section.*

3. Before initiating negotiations for real property, the state agency shall establish an amount which it believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property, if such an appraisal is required. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation, together with a copy of the agency's approved appraisal of the fair market value of such property upon which the agency has based the amount offered for the property, if such an appraisal is required. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

4. No owner shall be required to surrender possession of real property before the state agency pays the agreed purchase price, or deposits with the state court in accordance with applicable law, for the benefit of the owner, (i) an amount not less than the agency's approved appraisal of the fair market value of such property, if such an appraisal is required, or (ii) the amount of the award of compensation in the condemnation proceeding for such property.

5. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation, without at least 90-days' written notice from the state agency, of the date by which such move is required.

6. If the state agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term for a period subject to termination by the state agency on a short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

7. In no event shall the state agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

8. If any interest in real property is to be acquired by exercise of the power of eminent domain, the state agency shall institute formal condemnation proceedings. No state agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

9. If the acquisition of only part of a property would leave its owner with an uneconomic remnant,

59 the agency concerned shall offer to acquire the entire property.

60 10. A person whose real property is being acquired in accordance with this article may, after the
61 person has been fully informed of his right to receive just compensation for such property, donate such
62 property, and part thereof, any interest therein, or any compensation paid therefor to a state agency, as
63 such person shall determine.

64 B. The provisions of this section create no rights or liabilities and shall not affect the validity of any
65 property acquisitions by purchase or condemnation.