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SENATE BILL NO. 278

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 29, 2018)

(Patron Prior to Substitute—Senator Petersen)

A *BILL to amend and reenact § 25.1-310 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 2 of Title 25.1 a section numbered 25.1-247.1 and by adding a section numbered § 33.2-1027.1, relating to eminent domain proceedings; payment of funds to attorney for landowner.*

Be it enacted by the General Assembly of Virginia:

1. That § 25.1-310 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 2 of Title 25.1 a section numbered 25.1-247.1 and by adding a section numbered § 33.2-1027.1 as follows:

§ 25.1-247.1. Distribution of funds to attorney of landowner.

Notwithstanding any other provision of this chapter, upon any settlement or final determination resulting in a judgment for the landowner, whether funds have been paid into the court or are outstanding, all such funds due and owing shall be payable to the landowner or to the landowner's attorney, if such land owner is represented by counsel, within 30 days of the settlement or final determination, unless otherwise subject to § 25.1-250. The attorney or landowner receiving such funds shall be responsible for paying all outstanding liens on the property.

§ 25.1-310. Proceedings for distribution of funds.

A. Any person shown by a certificate to be entitled to funds deposited with the court or represented by a certificate of deposit may petition the court for the distribution of all or any part of the funds.

B. A copy of such petition shall be served on either (i) the attorney of record for the petitioner, if a condemnation proceeding is pending; or (ii) if such a proceeding is not pending, an officer or agent of the authorized condemnor who is authorized to accept service of process in any court proceeding on behalf of the authorized condemnor.

C. The copy of the petition shall be served with a notice returnable to the court not less than 21 days after such service, to show cause, if the authorized condemnor can, why such amount should not be distributed in accordance with the petition.

D. If the authorized condemnor does not, on or before the return day of the petition, show such cause, and if the record in the proceeding does not disclose any denial or dispute with respect thereto, the court shall enter an order directing the distribution of such amount in accordance with the prayers of the petition. However, in the case of a nonresident petitioner the court may in its discretion require a bond before ordering the distribution.

E. If funds have been deposited with the court pursuant to subdivision A 1 of § 25.1-305, any interest that has accrued on the funds shall be payable to the person or persons entitled to receive such funds.

F. If funds are not then on deposit with the court but are represented by a certificate of deposit pursuant to subdivision A 2 of § 25.1-305, a certified copy of such order shall forthwith be sent to the authorized condemnor by the clerk. The authorized condemnor shall deposit such funds with the court within 30 days of the date of such order.

G. Interest shall be payable on funds represented by a certificate of deposit from the date of filing of the certificate of deposit until the funds are paid into court at the general account's primary liquidity portfolio rate for the month in which the order pursuant to this section is entered. However, interest shall not accrue if an injunction is filed against the authorized condemnor that enjoins the taking of the property described in the certificate.

H. If the authorized condemnor shows such cause, or if the record in the proceeding discloses any denial or dispute as to the persons entitled to such distribution or to any interest or share therein, the court shall direct such proceedings as are provided by § 25.1-241 for the distribution of awards.

I. All funds due and owing pursuant to this section shall be payable promptly to the landowner or to the landowner's attorney, if such landowner is represented by counsel. The attorney or landowner receiving such funds shall be responsible for paying all outstanding liens on the property.

§ 33.2-1027.1. Distribution of funds to attorney of landowner.

Notwithstanding any other provision of this chapter, upon any settlement or final determination resulting in a judgment for the landowner, whether funds have been paid into the court or are outstanding, all such funds due and owing shall be payable to the landowner or to the landowner's attorney, if such land owner is represented by counsel, within 30 days of the settlement or final determination. The attorney or landowner receiving such funds shall be responsible for paying all

60 *outstanding liens on the property.*