

# VIRGINIA ACTS OF ASSEMBLY -- 1996 RECONVENED SESSION

## CHAPTER 923

*An Act to amend the Code of Virginia by adding a section numbered 33.1-70.2, relating to paving unpaved secondary highways.*

[S 284]

Approved April 17, 1996

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

**1. That the Code of Virginia is amended by adding a section numbered 33.1-70.2 as follows:**

*§ 33.1-70.2. Emergency paving of unpaved secondary roads; notice and public hearing required.*

*In the event of an emergency, no unpaved road within the secondary system of highways shall be paved unless the following procedures are satisfied:*

*1. The Commonwealth Transportation Commissioner shall provide notice of such intended paving to the governing body of the jurisdiction wherein the affected highway or portion thereof is located. The Commissioner shall provide such notice following his decision to pave the unpaved secondary road within the jurisdiction affected.*

*2. The local governing body shall hold a public hearing concerning the proposed emergency paving, and all plans to pave the affected secondary highway shall be suspended until after the public hearing is held. Such hearing shall be conducted jointly by representatives of the local governing body and a representative of the Department of Transportation. The local governing body's recommendation regarding the proposed paving shall then be forwarded to the Commissioner within 30 days following the receipt of the Commissioner's notice.*

*3. The Commissioner shall consider the following factors in determining whether the unpaved secondary road, as the result of an emergency, shall be paved: (i) the safety of the secondary highway in its current condition; (ii) the feasibility of restoring the unpaved highway to its functional level prior to the emergency; (iii) the concerns of the citizens in the jurisdiction wherein the affected highway is located, particularly those persons who own land adjacent to such highway; (iv) the concerns of the local governing body of the jurisdiction affected; and (v) the historical and aesthetic significance of the unpaved secondary highway and its surroundings.*