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HOUSE BILL NO. 1210

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 25 a chapter numbered 7, consisting of sections numbered 25-255 through 25-258, relating to Virginia Private Property Rights Act.

Patrons—Katzen, Albo, Bryant, Dudley, Ingram, Marshall, Nelms, Nixon, Weatherholtz and Wilkins

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 25 a chapter numbered 7, consisting of sections numbered 25-255 through 25-258 as follows:

CHAPTER 7.**THE VIRGINIA PRIVATE PROPERTY RIGHTS ACT.****§ 25-255. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Lawful use" means a use that was legal prior to the enactment of a law or regulation, but does not encompass any activity that is covered by private or public nuisance law.

"Person" means an individual, corporation, partnership or other legal entity, other than state or local governments or other political subdivisions, that owns real property in the Commonwealth.

"Private property" means any real property in the Commonwealth that is owned by a person.

"Taking" means the effect of a law or regulation when the law or regulation proscribes a lawful use of all or a portion of a person's private property and which devalues by more than twenty percent that portion of the affected property.

§ 25-256. Just compensation.

Any person who suffers a taking is entitled to be compensated by the authority effecting the taking for the diminution in value of the property in excess of twenty percent.

§ 25-257. Citizen suits to seek just compensation.

A. A person may bring an action, to compel compliance with § 25-226, against the Commonwealth, the local governing body or the state or local agency enacting a law or regulation or taking action under a law or regulation when the effect of the law or regulation or the implementation of the law or regulation by the body designated to carry out the law or regulation constitutes a taking of the person's private property.

B. The court, in issuing any final order in any action brought pursuant to this section, may, unless special circumstances would make an award unjust, award to any party substantially prevailing on the merits of the case, attorneys' fees and costs of the action.

§ 25-258. Exceptions.

The provisions of this chapter shall not apply to:

1. Law enforcement activity involving the seizure or forfeiture of private property for violations of law or as evidence in criminal proceedings.

2. Activity in which the power of eminent domain is exercised formally.

INTRODUCED

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