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**SENATE BILL NO. 1168**  
**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
 (Proposed by Delegate Cantor  
 on February 14, 1997)

(Patron Prior to Substitute—Senator Benedetti )

*A BILL to amend and reenact §§ 25-46.20 and 25-46.27 of the Code of Virginia, to amend and reenact the fourth enactment of Chapter 520 of the Acts of Assembly of 1991, as amended, and to repeal § 25-46.20:1, relating to eminent domain commissioners.*

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

**1. That §§ 25-46.20 and 25-46.27 of the Code of Virginia are amended and reenacted as follows:**

§ 25-46.20. (Effective until July 1, 1997) Appointment and oath of commissioners; commissioners to fix value of property and damages.

A. If the issue of just compensation is to be determined by a commission, the parties to the eminent domain proceeding may agree upon five or nine disinterested freeholders to act as commissioners, or if the parties cannot agree upon the names of commissioners to be summoned, then each party shall present to the court a list containing the names of at least six freeholders from which list the court shall select the names of nine persons to be summoned as commissioners; provided, however, that no person shall serve as such commissioner for more than one full week within any three-month period, unless agreed to by the parties, all of whom shall be residents of the county or city wherein the property or the greater portion of the property to be condemned is situated; and provided, further, if any party fails to submit a list containing six names as provided above, the judge may, in his discretion, submit such a list in such party's behalf; and provided further, that if a defendant has filed no answer to the petition, and the attorney for the petitioner certifies that he believes the defendant is unrepresented by counsel the judge may, in his discretion, and subject to the right of the petitioner to challenge for cause, subpoena five persons who shall serve as commissioners. If nine are summoned, the petitioner and the owners shall each have two peremptory challenges and the remaining five, or the original five if only five are summoned, shall be appointed, any three or more of whom may act, and shall fix the value of the property to be taken and the damages, if any, to any other property beyond the peculiar benefits, if any, to such other property by reason of the taking and use thereof by the petitioner. Before executing their duties the commissioners shall take an oath before some officer authorized by the laws of this Commonwealth to administer an oath, that they will faithfully and impartially ascertain what will be the value of the property to be taken and the damages, if any, to any other property beyond the peculiar benefits, if any, to such other property, by reason of such taking and use by the petitioner.

B. Condemnation commissioners shall be appointed utilizing provisions under §§ 25-46.20:1 through 25-46.20:5 whenever:

1. A county having a county manager form of government is the condemnor; or
2. The Commonwealth Transportation Commissioner is the condemnor in any county with the urban county executive form of government, or in a city adjacent to or completely surrounded by such a county, or in a county contiguous to any such county, or in a city adjacent to or completely surrounded by such a contiguous county, or in any town within such contiguous county.

§ 25-46.27. (Effective until July 1, 1997) Recordation of orders, judgments and proceedings.

The clerk of the court shall make and certify a copy of so much of the orders, judgments and proceedings in the case as shall show such condemnation, including a plat and description of the land or other property, or the estate or interest in the land condemned, and the contract, if any, as is mentioned in § 25-46.23. The clerk shall have the same recorded in the deed book in the office of the clerk wherein deeds are recorded in such county or city, and indexed in the names of the parties. When a condemnation results from proceedings instituted by the Commonwealth Transportation Commissioner, unless the plat is already recorded, it may be recorded in the State Highway Plat Book in the clerk's office. The plat shall, in either case, be indexed in the names of the parties. If any portion of the land lies in two or more counties or cities, or county and city, the clerk shall certify a copy of the proceedings above mentioned to the clerk of the court of each such county or city and such clerks shall record and index the same as above provided. The fees of the clerk for recording shall be the same as for recording a deed, and shall be paid by the petitioner.

**2. That the fourth enactment of Chapter 520 of the Acts of Assembly of 1991, as amended, is amended and reenacted as follows:**

4. That the amendments included in this act shall expire on July 1, 1997 1998, and this act shall continue in force as it existed prior to July 1, 1991.

**3. That § 25-46.20:1 of the Code of Virginia is repealed.**