

# VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

## CHAPTER 426

*An Act to amend and reenact § 33.1-90 of the Code of Virginia, relating to acquisition of property for transportation projects; sale of land determined not to be needed.*

[H 785]

Approved April 12, 1998

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

**1. That § 33.1-90 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-90. Acquisition of real property which may be needed for transportation projects; sale of certain real property.

A. When the Commonwealth Transportation Commissioner determines that any real property will be required in connection with the construction of a transportation project, or project as defined in § 33.1-268, within a period not exceeding twelve years for the Interstate Highway System or ten years for any other highway system or transportation project from the time of such determination, and that it would be advantageous to the Commonwealth to acquire such real property, he may proceed to do so. The Commonwealth Transportation Commissioner may lease any real property so acquired to the owner from whom such real property is acquired, if requested by him, and if not so requested, to another person upon such terms and conditions as in the judgment of the Commissioner may be in the public interest. If the transportation project contemplated, or project as defined in § 33.1-268, has not been let to contract or construction commenced within a period of twenty years from the date of the acquisition of such property and a need for the use of such property has not been determined for any alternative transportation project, upon written demand of the owner or owners, their heirs or assigns, received within ninety days from the expiration of such twenty-year period or such extension as provided for in this section or within thirty days from publication in a newspaper of general circulation in the political subdivision in which the property is located of a notice of the Commissioner's intent to dispose of such property and shall notify to the extent practical, the last known owner(s) of said property by certified mail, such property shall be reconveyed by the Commonwealth of Virginia to such owner or owners, their heirs or assigns, upon repayment of the original purchase price, without interest. Unless the reconveyance is concluded no later than six months from the receipt by the Commissioner of a written demand, the reconveyance opportunity shall lapse. However, the twenty-year limit established by this section within which the Department must let to contract or begin construction in order to avoid reconveyance shall be extended by the number of days of delay occasioned by litigation involving the project or by the failure of the Commonwealth to receive anticipated federal funds for such project. The twenty-year limit may also be extended in those instances when a project is included in the six-year improvement program of the Commonwealth Transportation Board or the six-year improvement program for secondary roads prepared by the county boards of supervisors and where steps have been taken to move forward. ~~No~~ *shall* No such reconveyance *shall* be required for rights-of-way acquired for future transportation improvements at the request of local governing bodies; or for rights-of-way acquired for state construction designed to provide future additional lanes or other enhancements to existing transportation facilities.

*B. If any real property acquired under this article for use in connection with a transportation project is subsequently offered for sale by the Department and such property is suitable for independent development, the Department shall offer the property for sale at fair market value to the owner from whom it was acquired, before such property is offered for sale to any other person. The Commissioner shall notify, to the extent practicable, the last known owner of such property by certified mail, and the owner shall have thirty days from the date of such notice to advise the Commissioner of his interest in purchasing the property. The purchase of the property by the owner from which it was acquired is to be concluded no later than six months from the receipt by the Commissioner of a written notice, or the purchase opportunity shall lapse. The provisions of this subsection shall apply only to property to which the provisions of subsection A of this section do not apply.*