

2020 RECONVENED SESSION

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SB28ER2

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 25.1-245.1 of the Code of Virginia and to repeal § 25.1-245 of the Code of Virginia, relating to eminent domain; costs.

[S 28]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 25.1-245.1 of the Code of Virginia is amended and reenacted as follows:

§ 25.1-245.1. Costs.

A. Except as otherwise provided in this chapter, all costs of the proceeding in the trial court that are fixed by statute shall be taxed against the condemnor.

B. The court may in its discretion tax as a cost a fee, not to exceed \$1,000, for a survey for the landowner.

C. If an owner whose property is taken by condemnation under this title or under Title 33.2 is awarded at trial, as compensation for the taking of or damage to his real property, an amount that is 25 percent or more greater than the amount of the condemnor's initial written offer made pursuant to § 25.1-204, the court may order the condemnor to pay to the owner those (i) reasonable costs, other than attorney fees, and (ii) reasonable fees and travel costs, including reasonable appraisal and engineering fees incurred by the owner, for up to three experts or as many experts as are called by the condemnor, whichever is greater, who testified at trial.

D. All costs on appeal shall be assessed and assessable in the manner provided by law and the Rules of Court as in other civil cases.

~~E. The requirements of this section shall not apply to those condemnation actions initiated by a public service company, public service corporation, railroad pursuant to the delegation of the power of eminent domain granted in Title 56, or government utility corporation, as defined by § 1-219.1. E. The requirements of this section shall not apply to those condemnation actions initiated by a public service company, public service corporation, railroad pursuant to the delegation of the power of eminent domain granted in Title 56, or government utility corporation, as defined by § 1-219.1, which shall be governed by § 25.1-245, involving easements adjudged at less than \$10,000.~~

2. That § 25.1-245 of the Code of Virginia is repealed.

3. That the provisions of this act shall not apply to condemnation proceedings in which the petitioner filed, prior to July 1, 2020, (i) a petition in condemnation pursuant to Chapter 2 (§ 25.1 et seq.) of Title 25.1 of the Code of Virginia or (ii) a certificate of take or deposit pursuant to Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 or Title 33.2 of the Code of Virginia. Any condemnation proceedings in which the petitioner filed a petition or certificate described in clause (i) or (ii) on or after July 1, 2016, and prior to July 1, 2020, shall be governed by the provisions of §§ 25.1-245 and 25.1-245.1 of the Code of Virginia in effect prior to July 1, 2020.