

**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*  
**Kenneth T. Cuccinelli, II**

**FOR IMMEDIATE RELEASE**

Contact: Brian Gottstein  
Email: [bgottstein@oag.state.va.us](mailto:bgottstein@oag.state.va.us) (best contact method)  
Phone: 804-786-5874

**Attorney General Cuccinelli statement on passage of  
property rights amendment in the Virginia Senate**

**RICHMOND** (February 22, 2011) – Attorney General Ken Cuccinelli issued this statement following the Virginia Senate’s passage of an amendment that would enshrine private property protections in the Virginia Constitution. House Joint Resolution 693 passed the Senate today 35-5.

“Today’s passage of a resolution in the Virginia Senate to include permanent property rights protections in the Virginia Constitution is a step in the right direction and is a long time coming. For too long, government and certain business interests colluded to make it possible to take the land of one landowner and give it to another, merely for the purpose of increasing tax revenue or employment or for private gain.

“While I sponsored a law in 2007 to stop such takings, every year since then, the General Assembly and special interests have attempted to chip away at those protections. That is why there was a need to put these very fundamental rights in the Virginia Constitution and protect them from the political whims of future legislatures.

“There were four critical components necessary to this constitutional amendment to correct past wrongs:

1. We ensured that private property only be taken for true public uses, such as schools and utilities; not for increased tax revenues, economic development, or private gain;
2. We made sure that the burden of proving that the taking is for a true “public use” is squarely on the entity taking the property;
3. We specified that no more property be taken than is necessary for the project at hand;
4. Finally, we ensured that the cost of taking private property be borne by the public, not the individual property owner. The public at large benefits from the property, and so it should bear the total cost, which includes compensating landowners for loss of profits when businesses are forced to move, and loss of access when property is taken which gave a landowner access to his land.

“One of the compromises made to get this resolution passed was to give the General Assembly the authority to define the terms ‘lost profits’ and ‘lost access’ so that courts can ensure that just compensation is given to landowners whose property is ultimately taken. It will be absolutely critical for the members of the General Assembly to properly define those terms in the law, so as to fully protect the property rights of Virginia families and businesses. A failure to do so would render much of this amendment meaningless.

“I want to thank Del. Johnny Joannou for carrying this resolution and for working so closely with my office on such a critical constitutional amendment. He never gave up and continued to fight to see it pass the House and the Senate. The people of Virginia owe him a debt of gratitude. Del. Rob Bell and Sens. Mark Obenshain and Steve Newman are also owed a debt for shepherding this legislation through their respective chambers.

“I also want to thank Sen. Creigh Deeds, who fought to get this amendment out of the Senate subcommittee where previous property rights legislation has gone to die.

“I now urge the House of Delegates to accept the language of this resolution as it comes out of the Senate, so that we are assured its passage and signature by the governor.”

A copy of this news release may be found on the website of the Attorney General of Virginia at [http://www.vaag.com/PRESS\\_RELEASES/index.html](http://www.vaag.com/PRESS_RELEASES/index.html).