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HOUSE BILL NO. 1324

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Albo
on February 4, 2000)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact §§ 10.1-1700 and 10.1-1801.1 of the Code of Virginia, relating to open-space lands preservation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1700 and 10.1-1801.1 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1700. Definitions.

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

"Open-space easement" means a nonpossessory interest of a public body in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

"Open-space land" means any land in an urban area which is provided or preserved for (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) historic or scenic purposes, (iv) assisting in the shaping of the character, direction, and timing of community development, or (v) wetlands as defined in § 28.2-1300.

"Public body" means any state agency having authority to acquire land for a public use, or any county or municipality, any park authority, any public recreational facilities authority, any soil and water conservation district, or the Virginia Recreational Facilities Authority.

"Urban area" means any area which is urban or urbanizing in character, including semiurban areas and surrounding areas which form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, resort, and other activities.

§ 10.1-1801.1. Open-Space Lands Preservation Trust Fund.

A. The Foundation shall establish, administer, manage, including the creation of reserves, and make expenditures and allocations from a special nonreverting fund in the state treasury to be known as the Open-Space Lands Preservation Trust Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the purpose of providing grants in accordance with this section to *localities acquiring open-space easements* or persons conveying conservation or open-space easements; ~~as defined by § 10.1-1009~~, on agricultural, forestal, or other open-space land pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.) and, if applicable, the Virginia Conservation Easement Act (§ 10.1-1009 et seq.).

B. The Fund shall consist of general fund moneys, gifts, endowments or grants from the United States government, its agencies and instrumentalities, and funds from any other available sources, public or private.

C. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not revert to the general fund. Interest earned on moneys received by the Fund shall remain in the Fund and be credited to it.

D. The purpose of grants made from the Fund shall be to aid *localities acquiring open-space easements* or persons conveying conservation or open-space easements with the costs associated with ~~such as the conveyance of the easements~~, which may include legal costs, appraisal costs or all or part of the value of the easement. In cases where a grant is used to purchase all or part of the value of an easement, moneys from the Fund may also be used by the Foundation to pay for an appraisal, provided that the appraisal is the only appraisal paid for by the Foundation in the acquisition of a particular easement. To be eligible for a grant award, the conservation or open-space easement shall provide that:

1. The easement is perpetual in duration;

2. The easement is conveyed to the Foundation and a local coholder; and

3. If the local coholder ceases to exist, the easement shall vest solely in the Foundation. If a local coholder of an easement for which a grant has been awarded under this section ceases to exist, the Foundation shall within two years convey the interest in the easement that was held by the local coholder to another qualified local coholder. If no qualified local coholder is willing to accept the easement, the Foundation shall diligently continue to seek a qualified local coholder.

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60 For the purposes of this section, "local coholder" means the governing body of the locality in which
61 the easement is located; a holder as defined in § 10.1-1009; a public recreational facilities authority;
62 other local entity authorized by statute to hold open-space or preservation easements, or a soil and water
63 conservation district, if authorized to hold an easement under the Open-Space Land Act (§ 10.1-1700 et
64 seq.). The Board of Historic Resources may be a local coholder if the easement is on land that abuts
65 land on which a designated historic landmark, building, structure, district, object or site is located.

66 E. In awarding grants from the Fund, the Foundation shall consider the recommendations of the
67 regional advisory boards established pursuant to § 10.1-1801.2. In the event that the regional advisory
68 board fails to make a recommendation within a reasonable amount of time, as determined by the
69 Foundation, after receiving written notice of a planned meeting, the Foundation may act on a grant
70 application. The Foundation shall establish guidelines for submittal and evaluation of grant applications.
71 In evaluating grant applications, the Foundation may give priority to applications that:

72 1. Request a grant to pay only legal and appraisal fees for a conservation *or open-space* easement
73 that is being donated by the landowner;

74 2. Request a grant to pay costs associated with conveying a conservation *or open-space* easement on
75 a family-owned or family-operated farm; or

76 3. Demonstrate the applicant's financial need for a grant.

77 F. No open-space land for which a grant has been awarded under this section shall be converted or
78 diverted from open-space land use unless:

79 1. Such conversion or diversion is in compliance with subsection A of § 10.1-1704; and

80 2. The easement on the land substituted for land subject to an easement with respect to which a grant
81 has been made under this section meets the eligibility requirements of this section.

82 *G. Up to \$100,000 per year of any interest generated by the Fund may be used for the Foundation's*
83 *administrative expenses.*