

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 320

An Act to amend and reenact §§ 10.1-603.16 through 10.1-603.20 of the Code of Virginia, relating to uses of the Flood Prevention and Protection Assistance Fund.

[H 178]

Approved April 1, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.16 through 10.1-603.20 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.16. Definitions.

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

"Dam owner" means the owner of the land on which a dam is situated, the holder of an easement permitting the construction of a dam and any person or entity agreeing to maintain a dam.

"Department" means the Department of Conservation and Recreation.

"Director" means the Director of the Department of Conservation and Recreation.

"Flood prevention or protection" means the construction of dams, levees, flood walls, channel improvements or diversions, local flood proofing, evacuation of flood-prone areas or land use controls which reduce or mitigate damage from flooding.

"Flood prevention or protection studies" means hydraulic and hydrologic studies of flood plains with historic and predicted floods, the assessment of flood risk and the development of strategies to prevent or mitigate damage from flooding.

"Fund" or "revolving fund" means the Flood Prevention and Protection Assistance Fund.

"Local funds" means cash provided for project or study implementation that is not derived from federal or state grants or loans.

"Local public body" means any city, county, town, water authority, service authority or special taxing district.

§ 10.1-603.17. Flood Prevention and Protection Assistance Fund established.

The Flood Prevention and Protection Assistance Fund is hereby established. The Fund shall consist of any moneys appropriated by the General Assembly and funds returned by localities *or other public or private sources* in the form of interest and repayment of loan principal. Any moneys remaining in the Fund at the end of the biennium including any appropriated funds and all principal interest accrued, interest and payments shall not revert to the general fund.

§ 10.1-603.18. Administration of the Fund.

The Director shall be responsible for the administration of the Fund and shall direct the distribution of grants or loans from the Fund ~~to particular local public bodies~~. The Director is authorized to promulgate regulations for the proper administration of the Fund. Such regulations may include, but are not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the fiscal stability of the particular ~~local public body~~ *applying applicant* and all other criteria for awarding of grants or loans.

§ 10.1-603.19. Purposes for which Fund is to be used.

A. The Director is authorized to make grants or loans to any city, county, town, water authority, service authority or taxing district for the purpose of assisting the local public body in the development and implementation of flood prevention or protection projects, or for flood prevention or protection studies. Grants or loans from the Fund *for flood prevention or protection projects, or for flood prevention or protection studies* may match, but shall not exceed the amount of contribution derived from local funds. No grant or loan *award for flood prevention or protection projects, or for flood prevention or protection studies*, individually or in combination for a single project, shall exceed twenty-five percent of the unencumbered balance of the fund as determined at the beginning of the fiscal year.

B. The Director is authorized to expend from the Fund up to \$50,000 annually, but no more than ten percent of the Fund's balance, which shall be utilized as cost share with federal agencies in flood protection studies of statewide or regional significance.

C. *The Director is also authorized, in order to protect public safety and welfare, to make grants or loans to local public bodies owning dams and to make loans to private owners for the design, repair and the safety modifications of dams identified in safety reports generated pursuant to § 10.1-607 or § 10.1-609. The Director shall develop grant and loan guidelines for the funds awarded under this subsection.*

§ 10.1-603.20. Condition for making loans or grants for flood prevention or protection projects or studies.

A. The Director may authorize a loan or grant *for flood prevention or protection projects, or for flood prevention or protection studies* under the provisions of § 10.1-603.19 only when the following conditions exist:

1. An application for the loan or grant has been submitted by the applicant in the manner and form specified by the Director, setting forth the amount of the loan or grant requested, and the use to which the loan or grant will be applied. The application shall describe in detail (i) the area to be studied or protected, including the population and the value of property to be protected, historic flooding data and hydrologic studies projecting flood frequency; (ii) the estimated cost-benefit ratio of the project; (iii) the ability of the locality to provide its share of the cost; (iv) the administration of local flood plain management regulations; and (v) other necessary information to establish project or study priority.

2. The local public body agrees and furnishes assurance, satisfactory to the Director, that it will satisfactorily maintain any structure financed, in whole or in part, through the loans or grants provided under this article.

3. The purpose for which the loan or grant is sought is one described in § 10.1-603.19.

4. If the requested loan or grant is sought to acquire land, the Director shall require satisfactory evidence prior to acting on the request that the local public body will acquire the land if the loan or grant is made.

5. A local public body is eligible to receive a grant once every five years, provided that it has a flood mitigation plan approved by the Director and has demonstrated satisfactory evidence of plan implementation. Lacking an approved plan the local public body is eligible for a grant once every ten years.

~~6. The Director shall award no grant which would reduce the available balance of the Fund below \$200,000; however, the Director may provide a loan from the unencumbered balance of the Fund.~~

B. In addition to the condition for making loans established under this article, the Director may require of a local public body such covenants and conditions as the Director deems necessary or expedient to further the purpose of the loan.

C. The Director may consent to and approve any modification in the terms of any loan to any local public body subject to the regulations promulgated.