

067505520

HOUSE BILL NO. 78

Offered January 11, 2006

Prefiled December 16, 2005

A BILL to amend and reenact § 15.2-2307 of the Code of Virginia, relating to reconstruction and restoration of involuntarily damaged or destroyed nonconforming property.

Patrons—Suit, Dudley, Frederick and Morgan

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2307. Vested rights not impaired; nonconforming uses.

Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property.

A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever they are enlarged, extended, reconstructed or structurally altered and may further provide that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use. *Notwithstanding any contrary provision of law, general or special, a zoning ordinance shall provide that any structure or condition of development which is, houses, or is related to a nonconformity may, if involuntarily damaged or destroyed, be reconstructed or restored to its prior condition and location within two years of it being damaged or destroyed, and that the nonconformity may continue as before; however, a zoning ordinance may provide that if the involuntarily damaged or destroyed structure or condition of development is not reconstructed or restored within two years, then any future construction or reconstruction on, or use of, the affected lot shall be in conformance with the provisions of the applicable local zoning ordinance.*

Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that

INTRODUCED

HB78

59 home with another comparable manufactured home that meets the current HUD manufactured housing
60 code. In such mobile or manufactured home park, a single-section home may replace a single-section
61 home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming
62 mobile or manufactured home not located in a mobile or manufactured home park may replace that
63 home with a newer manufactured home, either single- or multi-section, that meets the current HUD
64 manufactured housing code. Any such replacement home shall retain the valid nonconforming status of
65 the prior home.