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HOUSE BILL NO. 2431

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 19, 2007)

(Patron Prior to Substitute—Delegate Albo)

A *BILL to amend and reenact § 1-405 of the Code of Virginia, relating to the reversion of lands owned by the United States to the Commonwealth.*

Be it enacted by the General Assembly of Virginia:**1. That § 1-405 of the Code of Virginia is amended and reenacted as follows:**

§ 1-405. Reversion to Commonwealth; recorded title prerequisite to vesting jurisdiction.

A. As used in this section, unless the context requires otherwise:

"Corrective action" means the response and remediation to environmental contamination to the extent required by any applicable environmental law or regulation applicable to the property.

"Environmental contamination" means any hazardous waste, substance or toxic material, or its discharge or release, that is regulated under any environmental law or regulation applicable to the property, and shall include petroleum (including crude oil), natural gas, liquefied natural gas, ordnance, unexploded munitions, and asbestos.

B. If the United States shall cease to be the owner of any lands, or any part thereof, granted or conveyed to it by the Commonwealth; if the purposes of any such grant or conveyance to the United States shall cease; or if the United States shall for five consecutive years fail to use any such land for the purposes of the grant or conveyance, then, and in that event, the right and title to such land, or such part thereof, shall immediately revert to the Commonwealth unless such land, or part thereof, contains environmental contamination. No land containing environmental contamination shall be transferred or revert to the Commonwealth, unless and until all corrective action necessary to protect human health and the environment with respect to any environmental contamination on the lands, or portion thereof, has been completed to the satisfaction of the Commonwealth and approved by the Governor pursuant to § 2.2-1149, and the United States has executed and delivered a transfer instrument including covenants warranting that (i) all corrective action necessary to protect human health and the environment with respect to any environmental contamination on the land or any portion thereof has been taken, and (ii) any corrective action for environmental contamination occurring before the date of transfer found to be necessary after the date of the transfer of the title of the land or any portion thereof shall be conducted by the United States. *However, land containing environmental contamination may revert or transfer to the Commonwealth if the United States enters into a written agreement with the Commonwealth to indemnify the Commonwealth against all costs and liabilities associated with such environmental contamination and related corrective action or otherwise provides satisfactory assurances that all corrective action necessary to protect human health and the environment will be taken at the sole expense of the United States. The written agreement shall be in a form approved by the Attorney General of Virginia.*

In addition to the requirements set forth in the first paragraph of this subsection, such transfer or reversion shall not occur unless and until the United States has agreed, and provides assurances satisfactory to the Commonwealth, to provide all transportation infrastructure improvements required to accommodate the development of any property owned by the United States and contiguous or adjacent to the property subject to the transfer or reversion.

In cases where the Defense Base Closure and Realignment Commission (BRAC Commission) established pursuant to P.L. 101-510 (1990), as amended, identifies United States military bases located in the Commonwealth for closure, the Commonwealth shall have, in addition to the foregoing, the right to enter upon such lands so identified for the purpose of inspection for environmental contamination. Upon completion of such inspection, the Commonwealth shall report its findings to the Governor and the appropriate federal agencies.

C. All deeds, conveyances or title papers for the transfer of title of lands to the United States shall be recorded in the county or city wherein the land or the greater part thereof lies, but no tax shall be required on any such instrument made to the United States by which they acquire lands for public purposes.

D. The jurisdiction ceded by § 1-400 shall not vest until the United States shall have acquired the title of record to such lands, or rights or interest therein, by purchase, condemnation, lease or otherwise. So long as the lands, or any rights or interest therein, are held in fee simple by the United States, and no longer, such lands, rights or interest, as the case may be, shall continue exempt and exonerated, from all state and local taxes which may be levied or imposed under the authority of the Commonwealth.