

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 28.2-1200.1, relating to the*  
3 *conveyance of state-owned bottomlands.*

4 [H 2782]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 28.2-1200.1 as follows:**8 *§ 28.2-1200.1. Conveyance of state-owned bottomlands.*

9 *A. In order to fulfill the Commonwealth's responsibility under Article XI of the Constitution of*  
10 *Virginia to conserve and protect public lands for the benefit of the people, the Commonwealth shall not*  
11 *convey fee simple title to state-owned bottomlands covered by waters. However, the Commonwealth may*  
12 *grant a lease, easement, or other limited interest in state-owned bottomlands covered by waters pursuant*  
13 *to § 28.2-1208 or as long as the property is used by a governmental entity for the performance of a*  
14 *governmental activity, as defined in §§ 28.2-1300 and 28.2-1400.*

15 *B. The Commonwealth may convey fee simple title to specified parcels of state-owned bottomlands*  
16 *that have been lawfully filled. For the purpose of this section, "lawfully filled" means the deposit of fill*  
17 *was (i) authorized by statute, (ii) pursuant to valid court order, (iii) authorized or permitted by state*  
18 *officials pursuant to statutory authority subsequent to July 1, 1960, or (iv) under apparent color of*  
19 *authority prior to July 1, 1960. In the absence of information to the contrary, it may be presumed that*  
20 *state-owned bottomlands filled prior to July 1, 1960, were filled under apparent color of authority and,*  
21 *it may also be presumed, that all of the fill on the specified parcel was lawfully authorized if a*  
22 *substantial portion of the fill on such parcel was authorized. Properties not qualified under clauses (i)*  
23 *through (iv) of this subsection shall not be eligible for conveyance under this section.*

24 *C. Except as provided in subsection D, the grantee shall compensate the Commonwealth in an*  
25 *amount commensurate with the property interest being conveyed, which shall be considered equivalent*  
26 *to 25 percent of the assessed value of the specified parcel, exclusive of any buildings or other*  
27 *improvements. The assessed value shall be established as the average of the local real estate tax*  
28 *assessments for the most recent 10 years available for the specified parcel. If no such assessments are*  
29 *available for the specified parcel, then the assessed value shall be calculated as the percentage, by*  
30 *square footage or acreage, that the specified parcel represents of the larger parcel for which such*  
31 *assessments are available.*

32 *D. If the Commission determines that unique circumstances exist, the Commission may allow the*  
33 *grantee to compensate the Commonwealth in an amount less than 25 percent of the assessed value of*  
34 *the specified parcel. Any such determination by the Commission shall be justified in writing and shall*  
35 *not be subject to judicial review.*

36 **2. That the provisions of this act shall not affect any litigation that is pending on the effective**  
37 **date of this act.**

REENROLLED

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