

2007 SESSION

HOUSE SUBSTITUTE

071005428

HOUSE BILL NO. 2782

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 3, 2007)

(Patron Prior to Substitute—Delegate Morgan)

A BILL to amend the Code of Virginia by adding a section numbered 28.2-1200.1, relating to the conveyance of state-owned bottomlands.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 28.2-1200.1 as follows:

§ 28.2-1200.1. Conveyance of state-owned bottomlands.

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

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

2. That the provisions of this act shall become effective on July 1, 2008.

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