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HOUSE BILL NO. 2165

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Counties, Cities and Towns
on January 30, 2009)

(Patron Prior to Substitute—Delegate Lohr)

A BILL to amend the Code of Virginia by adding a section numbered 15.2-2288.01, relating to zoning; on-farm production of biofuels.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2288.01 as follows:

§ 15.2-2288.01. Localities shall not require a special use permit for certain small-scale conversion of biomass to alternative fuel.

A. As used in this section, unless the context requires a different meaning:

"Biomass" means agricultural-related materials including vineyard, grain or crop residues; straws; aquatic plants; and crops and trees planted for energy production.

"Small-scale conversion of biomass" means the conversion of any renewable biomass into heat, power, or biofuels.

B. A zoning ordinance shall not require that a special exception or special use permit be obtained for the small-scale conversion of biomass if: (i) at least 50 percent of the feedstock is produced either on site or by the owner of the conversion equipment; (ii) any structure used for the processing of the feedstock into energy occupies less than 4,000 square feet, not including the space required for storage of feedstock; and (iii) the owner of the farm notifies the administrative head of the locality in which the processing occurs. Localities may adopt reasonable requirements for setback, minimum lot area, and restrictions on the hours of operation and maximum noise levels applicable to the small-scale conversion of biomass. No setback, lot area, hours of operation or noise requirements may be more restrictive than similar provisions for other agricultural structures or activities.

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