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HOUSE BILL NO. 356

Offered January 9, 2008

Prefiled January 4, 2008

A *BILL to amend and reenact §§ 15.2-2319 and 15.2-2329 of the Code of Virginia, relating to impact fees.*

Patron—Cole

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That §§ 15.2-2319 and 15.2-2329 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-2319. Authority to assess and impose impact fees.

Any applicable locality may, by ordinance pursuant to the procedures and requirements of this article, assess and impose impact fees on new development to pay all or a part of the cost of reasonable road improvements that benefit the new development. *The assessment and imposition of impact fees shall, at the option of the locality, not apply to a subdivision, separation, or split-off of property made pursuant to a subdivision ordinance adopted under § 15.2-2244 or 15.2-2244.1, provided that title to the parcels subdivided, separated, or split-off is held in the name of an immediate family member for at least the first 60 months immediately following the subdivision, separation, or split-off. For purposes of this paragraph, an "immediate family member" means any person defined as such in the locality's subdivision ordinance adopted pursuant to § 15.2-2244 or 15.2-2244.1.*

Prior to the adoption of the ordinance, a locality shall establish an impact fee advisory committee. The committee shall be composed of not less than five nor more than ten members appointed by the governing body of the locality and at least forty percent of the membership shall be representatives from the development, building or real estate industries. The planning commission or other existing committee that meets the membership requirements may serve as the impact fee advisory committee. The committee shall serve in an advisory capacity to assist and advise the governing body of the locality with regard to the ordinance. No action of the committee shall be considered a necessary prerequisite for any action taken by the locality in regard to the adoption of an ordinance.

§ 15.2-2329. Imposition of impact fees.

A. Any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses may impose and collect impact fees in amounts consistent with the methodologies used in its comprehensive plan to defray the capital costs of public facilities related to the residential development. *However, the imposition and collection of impact fees shall, at the option of the locality, not apply to a subdivision, separation, or split-off of property made pursuant to a subdivision ordinance adopted under § 15.2-2244 or 15.2-2244.1, provided that title to the parcels subdivided, separated, or split-off is held in the name of an immediate family member for at least the first 60 months immediately following the subdivision, separation, or split-off. For purposes of this subsection, an "immediate family member" means any person defined as such in the locality's subdivision ordinance adopted pursuant to § 15.2-2244 or 15.2-2244.1.*

B. Impact fees imposed and collected pursuant to this section shall only be used for public facilities that are impacted by residential development.

C. A locality imposing impact fees as provided in this section shall allow credit against the impact fees for cash proffers collected for the purpose of defraying the capital costs of public facilities related to the residential development. A locality imposing impact fees as provided in this section shall also include within its comprehensive plan a methodology for calculating credit for the value of proffered land donations to accommodate public facilities, and for the construction cost of any public facilities or public improvements the construction of which is required by proffer.

D. A locality imposing impact fees under this section may require that such impact fees be paid prior to and as a condition of the issuance of any necessary building permits for residential uses.

E. For the purposes of this section, "public facilities" shall be deemed to include: (i) roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways; (ii) stormwater collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements; (iii) parks, open space, and recreation areas and related facilities; (iv) public safety facilities, including police, fire, emergency medical, and rescue facilities; (v) primary and secondary schools and related facilities; and (vi) libraries and related facilities; however, the definition "public facilities" for counties within the Richmond MSA shall be deemed to include: roads, streets, and bridges, including rights-of-way, traffic signals,

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59 landscaping, and any local components of federal or state highways.