

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 10.1-603.12:3 of the Code of Virginia, relating to stormwater*
3 *management facilities; liability.*

4 [H 1100]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 10.1-603.12:3 of the Code of Virginia is amended and reenacted as follows:**

8 § 10.1-603.12:3. Private rights; liability.

9 ~~The~~ A. Whenever a common interest community cedes responsibility for the maintenance, repair, and
10 replacement of a stormwater management facility on its real property to the Commonwealth or political
11 subdivision thereof, such common interest community shall be immune from civil liability in relation to
12 such stormwater management facility. In order for the immunity established by this subsection to apply,
13 (i) the common interest community must cede such responsibility by contract or other instrument
14 executed by both parties and (ii) the Commonwealth or the governing body of the political subdivision
15 shall have accepted the responsibility ceded by the common interest community in writing or by
16 resolution. As used in this section, maintenance, repair, and replacement shall include, without
17 limitation, cleaning of the facility, maintenance of adjacent grounds which are part of the facility,
18 maintenance and replacement of fencing where the facility is fenced, and posting of signage indicating
19 the identity of the governmental entity which maintains the facility. Acceptance or approval of an
20 easement, subdivision plat, site plan, or other plan of development shall not constitute the acceptance by
21 the Commonwealth or the governing body of the political subdivision required to satisfy subdivision (ii).
22 The immunity granted by this section shall not apply to actions or omissions by the landowner
23 constituting intentional or willful misconduct or gross negligence. For the purposes of this section,
24 "common interest community" means the same as that term is defined in § 55-528.

25 B. Except as provided in subsection A, the fact that any permittee holds or has held a permit issued
26 under this article shall not constitute a defense in any civil action involving private rights.

ENROLLED

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