

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 15.2-2303.1:1 and 15.2-2303.3 of the Code of Virginia, relating to the*
3 *acceptance and terms of cash proffers.*

4 [H 1253]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That §§ 15.2-2303.1:1 and 15.2-2303.3 of the Code of Virginia are amended and reenacted as**
8 **follows:**

9 § 15.2-2303.1:1. (Expires July 1, 2015) When certain cash proffers collected or accepted.

10 A. Notwithstanding the provisions of any cash proffer requested, offered, or accepted pursuant to
11 § 15.2-2298, 15.2-2303, or 15.2-2303.1 for residential construction on a per-dwelling unit or per-home
12 basis, cash payment made pursuant to such a cash proffer shall be collected or accepted by any locality
13 only after completion of the final inspection and prior to the time of the issuance of any certificate of
14 occupancy for the subject property.

15 B. *Notwithstanding the provisions of any proffer to the contrary, the assertion of a right to delayed*
16 *payment of cash proffers pursuant to this section shall not constitute cause for any action pursuant to*
17 *§ 15.2-2299.*

18 C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses,
19 and court costs to any person, group, or entity that prevails in an action successfully challenging an
20 ordinance, administrative or other action as being in conflict with this section.

21 ~~G. D.~~ The provisions of this section shall expire on July 1, 2015.

22 § 15.2-2303.3. Cash proffers requested or accepted by a locality.

23 A. No locality may require payment of a cash proffer prior to payment of any fees for the issuance
24 of a building permit for construction on property that is the subject of a rezoning. However, a
25 landowner petitioning for a zoning change may voluntarily agree to an earlier payment, pursuant to
26 §§ 15.2-2298 and 15.2-2303. If the petitioner voluntarily agrees to an earlier payment, the proffered
27 condition may be enforced as to the petitioner and any successor in interest according to its terms as
28 part of an approved rezoning.

29 B. No locality shall either request or accept a cash proffer whose amount is scheduled to increase
30 annually, from the time of proffer until tender of payment, by a percentage greater than the annual rate
31 of inflation, as calculated by referring to the Consumer Price Index for all urban consumers (CPI-U),
32 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau
33 of Labor Statistics or the Marshall and Swift Building Cost Index.

34 C. *No locality shall request or accept any provision of any proffer entered pursuant to § 15.2-2298,*
35 *15.2-2303, or 15.2-2303.1 in which the proffesor purports to waive future legal rights against the*
36 *locality or its agents. Any such proffer provision contained in a proffer entered and enacted on or after*
37 *January 1, 2012, shall be severable from the remainder of the proffer and shall be void ab initio. In the*
38 *event that a proffer containing such a provision is entered and enacted on or after January 1, 2012, the*
39 *rezoning to which the proffer containing such provision is attached shall not be nullified, rescinded, or*
40 *repealed, however described or delineated, by reason of any alleged breach of such a provision by the*
41 *proffesor, notwithstanding any provisions of the proffer to the contrary.*