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**HOUSE BILL NO. 2238**

Offered January 14, 2013

*A BILL to amend and reenact § 15.2-2261 of the Code of Virginia and to amend Chapter 508 of the Acts of Assembly of 2012 by adding a third enactment, relating to recorded plats and final site plans.*

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Patron—Marshall, D.W.

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Referred to Committee on Counties, Cities and Towns

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**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-2261 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-2261. Recorded plats or final site plans to be valid for not less than five years.**

A. An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the local planning commission or other agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirement remaining to be satisfied in order to obtain a building permit is *either (i) the posting of any bonds and escrows or (ii) the submission of any other administrative documents, agreements, deposits, or fees required by the locality in order to obtain the permit.*

B. 1. Upon application of the subdivider or developer filed prior to expiration of a recorded plat or final site plan, the local planning commission or other agent may grant one or more extensions of such approval for additional periods as the commission or other agent may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

2. If the commission or other agent denies an extension requested as provided herein and the subdivider or developer contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of land subject to the recorded plat or final site plan, provided that such appeal is filed with the circuit court within sixty days of the written denial by the commission or other agency.

C. For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five years after approval, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or final site plan shall adversely affect the right of the subdivider or developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the recorded plat or site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

D. Application for minor modifications to recorded plats or final site plans made during the periods of validity of such plats or plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

E. The provisions of this section shall be applicable to all recorded plats and final site plans valid on or after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited and thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the provisions of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.); or (iv) the application to individual lots on recorded plats or parcels of land subject to final site plans of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

F. An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a

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HB2238

59 vacation action as set forth in §§ 15.2-2270 through 15.2-2278.

60 **2. That Chapter 508 of the Acts of Assembly of 2012 is amended by adding a third enactment as**  
61 **follows:**

62 **3. That extensions of validity effective pursuant to § 15.2-2209.1 of the Code of Virginia and**  
63 **the second enactment of Chapter 193 of the Acts of Assembly of 2009 as of June 30, 2012, shall**  
64 **continue to be valid pursuant to this act until the extension date provided in this act.**