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**HOUSE BILL NO. 40**

Offered January 11, 2012

Prefiled December 14, 2011

*A BILL to amend and reenact § 28.2-1408.2 of the Code of Virginia, relating to exemption from Coastal Primary Sand Dune ordinances in order to protect property.*

Patron—Tata

Referred to Committee on Agriculture, Chesapeake and Natural Resources

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

**1. That § 28.2-1408.2 of the Code of Virginia is amended and reenacted as follows:**

§ 28.2-1408.2. Exemptions.

Notwithstanding the requirements of § 28.2-1408 or any other provision of this Code, the Virginia Beach Wetlands Board (Board) shall make an ongoing determination in the Sandbridge Beach Subdivision *and in the Chesapeake Beach Subdivision* to determine which structures or properties are in clear and imminent danger from erosion and storm damage due to severe wave action or storm surge. The owners of such structures or properties shall not be prohibited from erecting and maintaining protective bulkheads or other equivalent structural improvements of the type, size and configuration as approved by the Board.

As used in this section, ~~the~~:

"Chesapeake Beach Subdivision" means the area that is bounded on the east by Joyce Avenue, on the west by the Joint Expeditionary Base Little Creek-Fort Story, and on the south by Lauderdale Avenue.

"Sandbridge Beach Subdivision" means the area that is bounded on the north by Dam Neck Naval Base, on the west by Sandpiper Road, and on the south by Little Island Park.

The Board shall not impose arbitrary or unreasonable conditions upon its approval of any such bulkhead or other structural improvement. The Board shall maintain a continuing responsibility to ensure that each bulkhead or structural improvement constructed under the authority of this section is maintained in a condition that is safe, structurally sound, and otherwise in conformity with the conditions imposed by the Board.

Upon submission of an application to the Board pursuant to this section, as a requirement for approval, the applicant must consent in writing to any subsequent construction approved by the Board whereby an adjacent property owner desires to tie in a bulkhead at no additional cost with the bulkhead proposed by the applicant. Such consent shall constitute a waiver of property line defenses relating to the bulkhead line.

INTRODUCED

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