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SENATE BILL NO. 209**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by Senator McWaters

on January 21, 2014)

(Patron Prior to Substitute—Senator McWaters)

A BILL to amend and reenact § 28.2-1202 of the Code of Virginia, relating to sand replenishment, riparian rights, and public access.

Be it enacted by the General Assembly of Virginia:**1. That § 28.2-1202 of the Code of Virginia is amended and reenacted as follows:****§ 28.2-1202. Rights of owners to extend to mean low-water mark.**

A. Subject to the provisions of § 28.2-1200, the limits or bounds of the tracts of land lying on the bays, rivers, creeks, and shores within the jurisdiction of the Commonwealth, and the rights and privileges of the owners of such lands, shall extend to the mean low-water mark but no farther, except where a creek or river, or some part thereof, is comprised within the limits of a lawful survey.

B. For purposes of this section, "lawful survey" means the boundaries of any land, including submerged lands, held under a special grant or compact as required by § 28.2-1200, such boundaries having been determined by generally accepted surveying methods and evidenced by a plat or map thereof recorded in the circuit court clerk's office of the county or city in which the land lies.

C. *Notwithstanding any provision of law to the contrary, where sand or other material is placed upon state-owned beds of the bays, rivers, creeks, or shores of the sea channelward of the mean low-water mark as part of the performance of a properly permitted beach nourishment, storm protection, or dredging project undertaken by a public body, and the public has an established right of use and maintenance upon the adjacent land above mean low water mark, whether such public right is established before or after the sand or other material is placed, such placement shall not be deemed a severance or taking of, or otherwise to have impaired, an adjacent landowner's riparian or littoral rights, and the newly created land channelward of the former mean low-water mark shall be deemed natural accretion for purposes of ownership, but such ownership shall be subject to the public's same right of use and maintenance upon the newly created land as previously existed on the adjacent land above the mean low-water mark. This subsection is retroactively effective beginning January 1, 2009.*