

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 15.2-2208.1, relating to*
3 *unconstitutional grant or denial by localities of certain permits and approvals; damages, attorney*
4 *fees and costs.*

5 [S 578]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That the Code of Virginia is amended by adding a section numbered 15.2-2208.1 as follows:**9 **§ 15.2-2208.1. Damages for unconstitutional grant or denial by locality of certain permits and**
10 **approvals.**11 *A. Notwithstanding any other provision of law, general or special, any applicant aggrieved by the*
12 *grant or denial by a locality of any approval or permit, however described or delineated, including a*
13 *special exception, special use permit, conditional use permit, rezoning, site plan, plan of development,*
14 *and subdivision plan, where such grant included, or denial was based upon, an unconstitutional*
15 *condition pursuant to the United States Constitution or the Constitution of Virginia, shall be entitled to*
16 *an award of compensatory damages and to an order remanding the matter to the locality with a*
17 *direction to grant or issue such permits or approvals without the unconstitutional condition and may be*
18 *entitled to reasonable attorney fees and court costs.*19 *B. In any proceeding, once an unconstitutional condition has been proven by the aggrieved applicant*
20 *to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent*
21 *clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept*
22 *the unconstitutional condition was the controlling basis for such impermissible grant or denial provided*
23 *only that the applicant objected to the condition in writing prior to such grant or denial.*24 *C. Any action brought pursuant to this section shall be filed with the circuit court having jurisdiction*
25 *of the land affected or the greater part thereof, and the court shall hear and determine the case as soon*
26 *as practical, provided that such action is filed within the time limit set forth in subsection C or D of*
27 *§ 15.2-2259, subsection D or E of § 15.2-2260, or subsection F of § 15.2-2285, as may be applicable.*28 **2. That the provisions of this act shall apply only to approvals or permits that are granted or**
29 **denied on or after July 1, 2014.**

ENROLLED

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