

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-1151.1 of the Code of Virginia, relating to issuance of land use*  
3 *permits by the Department of Transportation.*

4 [H 698]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 2.2-1151.1 of the Code of Virginia is amended and reenacted as follows:**8 **§ 2.2-1151.1. Conveyances of right-of-way usage to certain nonpublic service companies by the**  
9 **Department of Transportation.**

10 A. As used in this section:

11 "Department" means the Virginia Department of Transportation.

12 "Developer" means a person who undertakes to develop real estate.

13 B. No land use permit shall be issued by the Department to any company other than a public service  
14 company as defined in § 56-76, a company owning or operating an interstate natural gas pipeline, or a  
15 franchised cable television systems operator owning or operating a utility line as defined in § 56-265.15,  
16 unless such company has (i) registered as an operator with the appropriate notification center as defined  
17 by § 56-265.15 and (ii) notified the commercial and residential developer, owner of commercial,  
18 multifamily or residential real estate, or local government entities with a property interest in any parcel  
19 of land located adjacent to the property over which the land use is being requested, that application for  
20 the permit has been made. Any permit application approved by the Department shall include an affidavit  
21 indicating compliance with the registration and notification requirements provided by this subsection.

22 C. The provisions of subsection B shall not apply to a land use permit issued by the Department to  
23 (i) a person providing utility service solely for ~~their~~ *his* own agricultural or residential use, provided *that*  
24 *the utilities are located on property owned by the person and the utilities are, or (ii) the owner of a*  
25 *private residence or business for water or sewer service to cross the Department's right-of-way when no*  
26 *viable alternative exists to provide potable water or to transfer sewer effluent to a qualified drain field.*  
27 *In the case of any application for a land use permit under this subsection, the utilities shall be marked*  
28 *in accord with requirements established by the Department.*

29 D. No performance surety held by the Department in association with a land use permit issued to a  
30 company pursuant to subsection B to perform work within the Department's right-of-way shall be  
31 released until such time as all claims against the company associated with the work have been resolved,  
32 provided a claimant has notified the Department of a claim against such company within 30 days after  
33 completion of the work. A claimant shall have no more than one year after the notification is received  
34 by the Department to complete any action against the company associated with the work for which the  
35 claim has been made. After the expiration of the one-year period, the Department may release the  
36 performance surety.

37 E. Nothing in this section shall be construed or interpreted to create a cause of action or  
38 administrative claim against the Department.

ENROLLED

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