

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-1151.1 of the Code of Virginia, relating to conveyance of*
3 *right-of-way usage to certain nonpublic service companies.*

4 [S 792]

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 *"Social welfare organization" means an organization as defined in § 501(c)(4) of the Internal*
14 *Revenue Code.*15 B. No land use permit shall be issued by the Department to any company other than a public service
16 company as defined in § 56-76, a company owning or operating an interstate natural gas pipeline, a
17 *social welfare organization operating a wholesale open-access fiber network*, or a franchised cable
18 television systems operator owning or operating a utility line as defined in § 56-265.15, unless such
19 company, *organization, or operator* has (i) registered as an operator with the appropriate notification
20 center as defined by § 56-265.15 and (ii) notified the commercial and residential developer, owner of
21 commercial, multifamily, or residential real estate, or local government entities with a property interest
22 in any parcel of land located adjacent to the property over which the land use is being requested, that
23 application for the permit has been made. Any permit application approved by the Department shall
24 include an affidavit indicating compliance with the registration and notification requirements provided by
25 this subsection.26 C. The provisions of subsection B shall not apply to a land use permit issued by the Department to
27 (i) a person providing utility service solely for his own agricultural or residential use, provided that the
28 utilities are located on property owned by the person, or (ii) the owner of a private residence or business
29 for water or sewer service to cross the Department's right-of-way when no viable alternative exists to
30 provide potable water or to transfer sewer effluent to a qualified drain field. In the case of any
31 application for a land use permit under this subsection, the utilities shall be marked in accord with
32 requirements established by the Department.33 D. No performance surety held by the Department in association with a land use permit issued to a
34 company pursuant to subsection B to perform work within the Department's right-of-way shall be
35 released until such time as all claims against the company associated with the work have been resolved,
36 provided a claimant has notified the Department of a claim against such company within 30 days after
37 completion of the work. A claimant shall have no more than one year after the notification is received
38 by the Department to complete any action against the company associated with the work for which the
39 claim has been made. After the expiration of the one-year period, the Department may release the
40 performance surety.41 E. Nothing in this section shall be construed or interpreted to create a cause of action or
42 administrative claim against the Department.

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