

# 2021 SPECIAL SESSION I

INTRODUCED

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## HOUSE BILL NO. 1928

Offered January 13, 2021

Prefiled January 10, 2021

*A BILL to amend and reenact §§ 2.2-1149, 10.1-2202, and 10.1-2204 of the Code of Virginia, relating to historic resources; acquisition and lease of land.*

Patrons—Aird, Bagby, Bourne, Helmer, Lopez, Rasoul, Scott, Simonds and Torian

Referred to Committee on Agriculture, Chesapeake and Natural Resources

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

**1. That §§ 2.2-1149, 10.1-2202, and 10.1-2204 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1149. Department to review proposed acquisitions of real property; approval by the Governor; exceptions.**

Notwithstanding any provision of law to the contrary, no state department, agency or institution shall acquire real property by gift, lease, purchase or any other means or use or occupy real property without following the guidelines adopted by the Department and obtaining the prior approval of the Governor. The Department shall review every proposed acquisition of real property by gift, lease, purchase or any other means and every proposed use or occupancy of real property by any department, agency or institution of the Commonwealth and recommend either approval or disapproval of the transactions to the Governor based on cost, demonstrated need, and compliance with the Department's guidelines.

The provisions of this section shall not apply to the:

1. Acquisition of real property for open space ~~preservations~~ *or historic preservation purposes* pursuant to the purposes of § 10.1-1800 ~~and subdivision A 4 of §, 10.1-2202, or 10.1-2204~~, if it does not require as a condition of acceptance, an appropriation of any state funds for the continued maintenance of such property;

2. Acquisition of easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 ~~or, §§ 10.1-1700, 10.1-1702, 10.1-1701, and 10.1-1702, or §§ 10.1-2202 or 10.1-2204~~;

3. Acquisition through the temporary lease or donation of real property for a period of six months or less duration;

4. Acquisition of easements by public institutions of higher education provided that the particular institution meets the conditions prescribed in subsection A of § 23.1-1002;

5. Entering into an operating/income lease or a capital lease by a public institution of higher education, for real property to be used for academic purposes, or for real property owned by the institution or a foundation related to the institution to be used for non-academic purposes, in accordance with the institution's land use plan pursuant to § 2.2-1153 provided that (i) the capital lease does not constitute tax-supported debt of the Commonwealth, (ii) the institution meets the conditions prescribed in subsection A of § 23.1-1002, and (iii) for purposes of entering into a capital lease, the institution shall have in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the appropriation act. For the purposes of this subdivision, an operating/income lease or a capital lease shall be determined using generally accepted accounting principles;

6. Acquisition of real property for the construction, improvement or maintenance of highways and transportation facilities and purposes incidental thereto by the Department of Transportation; however, acquisitions of real property by the Department of Transportation for office space, district offices, residencies, area headquarters, or correctional facilities shall be subject to the Department's review and the Governor's approval;

7. Acquisition of real estate or rights-of-way for the construction, improvement, or maintenance of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes associated with the efforts of the Department of Rail and Public Transportation; however, acquisitions of real estate or rights-of-way by the Department of Rail and Public Transportation for office space or district offices shall be subject to review by the Department and the approval of the Governor; or

8. Acquisition of real property to be held in trust for the benefit of a state-recognized Indian tribe, provided that such property is (i) annexed into the existing reservation of such tribe and (ii) located within a one-mile radius of the boundary of such reservation. However, these acquisitions of real estate shall be subject to the review of the Office of the Attorney General and the approval by the Governor.

**§ 10.1-2202. Powers and duties of the Director.**

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59 In addition to the powers and duties conferred upon the Director elsewhere and in order to  
60 encourage, stimulate, and support the identification, evaluation, protection, preservation, and  
61 rehabilitation of the Commonwealth's significant historic, architectural, archaeological, and cultural  
62 resources; in order to establish and maintain a permanent record of those resources; and in order to  
63 foster a greater appreciation of these resources among the citizens of the Commonwealth, the Director  
64 shall have the following powers and duties which may be delegated by the Director:

65 1. To employ such personnel as may be required to carry out those duties conferred by law;

66 2. To make and enter into all contracts and agreements necessary or incidental to the performance of  
67 his duties and the execution of his powers, including but not limited to contracts with private nonprofit  
68 organizations, the United States, other state agencies and political subdivisions of the Commonwealth;

69 3. To apply for and accept bequests, grants and gifts of real and personal property as well as  
70 endowments, funds, and grants from the United States government, its agencies and instrumentalities,  
71 and any other source. The Director shall have the authority to comply with such conditions and execute  
72 such agreements as may be necessary, convenient or desirable;

73 4. To perform acts necessary or convenient to carry out the duties conferred by law;

74 5. To promulgate regulations, in accordance with the Virginia Administrative Process Act (§ 2.2-4000  
75 et seq.) and not inconsistent with the National Historic Preservation Act (P.L. 89-665) and its attendant  
76 regulations, as are necessary to carry out all responsibilities incumbent upon the State Historic  
77 Preservation Officer, including at a minimum criteria and procedures for submitting nominations of  
78 properties to the National Park Service for inclusion in the National Register of Historic Places or for  
79 designation as National Historic Landmarks;

80 6. To conduct a broad survey and to maintain an inventory of buildings, structures, districts, objects,  
81 and sites of historic, architectural, archaeological, or cultural interest which constitute the tangible  
82 remains of the Commonwealth's cultural, political, economic, military, or social history;

83 7. To publish lists of properties, including buildings, structures, districts, objects, and sites,  
84 designated as landmarks by the Board, to inspect designated properties from time to time, and  
85 periodically publish a complete register of designated properties setting forth appropriate information  
86 concerning those properties;

87 8. With the consent of the landowners, to provide appropriately designed markers for designated  
88 buildings, structures, districts, objects and sites;

89 9. To acquire ~~and to administer fee title, easements, or other interests, on behalf of the Department,~~  
90 ~~in and to battlefield properties and, designated landmarks, or easements or interests therein and other~~  
91 ~~properties of historic significance as determined by the Department, and to administer such properties,~~  
92 ~~whether acquired pursuant to this subsection or subdivision A 4 of § 10.1-2204;~~

93 10. To aid and to encourage counties, cities and towns to establish historic zoning districts for  
94 designated landmarks and to adopt regulations for the preservation of historical, architectural,  
95 archaeological, or cultural values;

96 11. To provide technical advice and assistance to individuals, groups and governments conducting  
97 historic preservation programs and regularly to seek advice from the same on the effectiveness of  
98 Department programs;

99 12. To prepare and place, in cooperation with the Department of Transportation, highway historical  
100 markers approved by the Board of Historic Resources on or along the highway or street closest to the  
101 location which is intended to be identified by the marker;

102 13. To develop a procedure for the certification of historic districts and structures within the historic  
103 districts for federal income tax purposes;

104 14. To aid and to encourage counties, cities, and towns in the establishment of educational programs  
105 and materials for school use on the importance of Virginia's historic, architectural, archaeological, and  
106 cultural resources;

107 15. To conduct a program of archaeological research with the assistance of the State Archaeologist  
108 which includes excavation of significant sites, acquisition and maintenance of artifact collections for the  
109 purposes of study and display, and dissemination of data and information derived from the study of sites  
110 and collections;

111 16. To manage and administer the Historic Resources Fund as provided in § 10.1-2202.1; and

112 17. To manage and administer the Historical African American Cemeteries and Graves Fund as  
113 provided in § 10.1-2211.3.

114 **§ 10.1-2204. Duties of Board of Historic Resources.**

115 A. The Board of Historic Resources shall:

116 1. Designate historic landmarks, including buildings, structures, districts, objects and sites which  
117 constitute the principal historical, architectural, archaeological, and cultural resources which are of local,  
118 statewide or national significance and withdraw designation either upon a determination by the Board  
119 that the property has failed to retain those characteristics for which it was designated or upon  
120 presentation of new or additional information proving to the satisfaction of the Board that the

121 designation had been based on error of fact;

122 2. Establish and endorse appropriate historic preservation practices for the care and management of  
123 designated landmarks;

124 3. Approve the proposed text and authorize the manufacture of highway historical markers;

125 4. Acquire ~~by purchase or gift~~ *fee title, easements, or other interests in and to* battlefield properties  
126 ~~and, designated landmarks, or easements or interests therein~~ *and other properties of historic significance*  
127 *as determined by the Department;*

128 5. Review the programs and services of the Department of Historic Resources, including annual plans  
129 and make recommendations to the Director and the Governor concerning the effectiveness of those  
130 programs and services;

131 6. In cooperation with the Department, and through public lectures, writings, and other educational  
132 activities, promote awareness of the importance of historic resources and the benefits of their  
133 preservation and use; and

134 7. Apply for gifts, grants and bequests for deposit in the Historic Resources Fund to promote the  
135 missions of the Board and the Department.

136 B. For the purposes of this chapter, designation by the Board of Historic Resources shall mean an act  
137 of official recognition designed (i) to educate the public to the significance of the designated resource  
138 and (ii) to encourage local governments and property owners to take the designated property's historic,  
139 architectural, archaeological, and cultural significance into account in their planning, the local  
140 government comprehensive plan, and their decision making. Such designation, itself, shall not regulate  
141 the action of local governments or property owners with regard to the designated property.