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SENATE BILL NO. 158

Offered January 12, 2022

Prefiled January 10, 2022

A BILL to amend and reenact § 10.1-2204 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-2202.5, relating to Virginia Black, Indigenous, and People of Color Historic Preservation Fund established.

Patrons—Hashmi and McClellan; Delegate: Carr

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2204 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-2202.5 as follows:

§ 10.1-2202.5. Virginia Black, Indigenous, and People of Color Historic Preservation Fund; established.

A. As used in this section:

"Eligible costs" means acquisition of real property and any improvements thereon; acquisition of a permanent protective interest in real property such as a perpetual preservation easement; costs associated with the acquisition of real property or interests thereof, such as appraisals, environmental reports, surveys, title searches, title insurance, and closing costs; costs of registering property with the Virginia Landmarks Register and the National Register of Historic Places, including survey and consultation fees and other related costs; and costs associated with the material rehabilitation or stabilization of real property.

"Fund" means the Virginia Black, Indigenous, and People of Color Historic Preservation Fund.

"Organization" means a private nonprofit organization.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Black, Indigenous, and People of Color Historic Preservation Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, any funds from the federal government, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

C. Moneys in the Fund shall be used solely for grants to any eligible state-recognized or federally recognized Indian tribe, private nonprofit organization, or locality for eligible costs related to the purchase of a fee simple or protective interest in real property; rehabilitation or stabilization of real property; or data recovery of any cultural or historical property associated with Black, indigenous, or people of color communities and listed in the Virginia Landmarks Register, the National Register of Historic Places, designated as a National Historic Landmark, or determined eligible for such listing. Matching funds may be required for grants from the Fund.

D. Grants awarded from the Fund for the acquisition of real property by fee simple purchase or by purchase of protective interests shall not exceed 50 percent of the appraised value of the land or permanent protective interest.

E. Grants from the Fund may be awarded for a prospective purchase or for acquisitions upon which the applicant has already completed the transaction. If the transaction has been completed at the time of the application for the grant, the applicant shall demonstrate that (i) the transaction was completed no more than 12 months prior to the date of the application for the grant and (ii) an identifiable threat to the resource or compelling need for preservation existed at the time of the purchase.

F. Any state-recognized or federally recognized Indian tribe, organization, or locality receiving a grant from the Fund shall grant the Board or other holder a perpetual easement pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.) for the purpose of preserving real property that is important for its historical, architectural, or archaeological aspects, replacing restrictions on the use or development of the land. If the easement is granted to a holder other than the Board, all terms and conditions of the easement shall be reviewed by the Department to ensure that the easement accomplishes the perpetual preservation of the property. Such other holder shall demonstrate to the Department that it has the capacity and expertise to manage and enforce the terms of the easement.

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59 *G. The Director shall administer and manage the Fund and shall establish guidelines for*
60 *applications, evaluations, and recommendations to the Board for the award of grants from the Fund. In*
61 *awarding grants, the Board shall give primary consideration to the significance of the real property and*
62 *the threat to and integrity of features associated with such property. The Board shall also consider the*
63 *applicant's financial need, the ability of an applicant to provide matching funds, and the financial and*
64 *administrative capacity of the applicant to complete the project and maintain and manage the property*
65 *in a manner that is consistent with public investment and public interest, such as education, recreation,*
66 *research, heritage tourism promotion, or orderly community development. The Director shall make grant*
67 *award recommendations to the Board for approval by the Board. The Director shall incorporate the*
68 *ConserveVirginia program, established pursuant to § 10.1-104.6:1, into grant award recommendations to*
69 *the Board, when appropriate.*

70 **§ 10.1-2204. Duties of Board of Historic Resources.**

71 A. The Board of Historic Resources shall:

72 1. Designate historic landmarks, including buildings, structures, districts, objects and sites which
73 constitute the principal historical, architectural, archaeological, and cultural resources which are of local,
74 statewide or national significance and withdraw designation either upon a determination by the Board
75 that the property has failed to retain those characteristics for which it was designated or upon
76 presentation of new or additional information proving to the satisfaction of the Board that the
77 designation had been based on error of fact;

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

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

81 4. Acquire battlefield properties, designated landmarks, and other properties of historic significance,
82 or easements or interests therein;

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

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

89 7. Approve awards from the Virginia Black, Indigenous, and People of Color Historic Preservation
90 Fund established pursuant to § 10.1-2202.5; and

91 8. Apply for gifts, grants and bequests for deposit in the Historic Resources Fund to promote the
92 missions of the Board and the Department.

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