

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 510

*An Act to amend and reenact §§ 10.1-603.16, 10.1-603.18, 10.1-603.19, 10.1-603.20, and 10.1-603.22 of the Code of Virginia, relating to the Flood Prevention and Protection Assistance Fund.*

[S 1123]

Approved March 23, 1995

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

**1. That §§ 10.1-603.16, 10.1-603.18, 10.1-603.19, 10.1-603.20, and 10.1-603.22 of the Code of Virginia are amended and reenacted as follows:**

§ 10.1-603.16. Definitions.

As used in this article unless the context requires a different meaning:

"Board" means the ~~Virginia Soil and Water Conservation Board~~.

"Department" means the Department of Conservation and Recreation.

"Director" means the *Director of the Department of Conservation and Recreation*.

"Flood prevention or protection" means the construction of dams, levees, flood walls, channel improvements or diversions, local flood proofing, evacuation of flood-prone areas or land use controls which reduce or mitigate damage from flooding.

"Flood prevention or protection studies" means hydraulic and hydrologic studies of flood plains with historic and predicted floods, the assessment of flood risk and the development of strategies to prevent or mitigate damage from flooding.

"Fund" or "revolving fund" means the Flood Prevention and Protection Assistance Fund.

"Local funds" means *cash provided for project or study implementation that is not derived from federal or state grants or loans*.

"Local public body" means any city, county, town, water authority, service authority or special taxing district.

§ 10.1-603.18. Administration of the Fund.

The ~~Board~~ Director shall be responsible for the administration of the Fund and shall direct the distribution of grants or loans from the Fund to particular local public bodies. The ~~Board~~ Director is authorized to promulgate regulations for the proper administration of the Fund. Such regulations may include, but are not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the fiscal stability of the particular local public body applying and all other criteria for awarding of grants or loans.

§ 10.1-603.19. Purposes for which Fund is to be used.

A. The ~~Board~~ Director is authorized to make grants or loans to any city, county, town, water authority, service authority or taxing district for the purpose of assisting the local sponsors in providing required matching funds for public body in the development and implementation of flood prevention or protection projects, or for flood prevention or protection studies conducted by agencies of the federal government. No grant or loan shall exceed fifty percent of the amount of funds to be provided by the local sponsor. Grants or loans from the Fund may match, but shall not exceed the amount of contribution derived from local funds. No grant or loan award, individually or in combination for a single project, shall exceed twenty-five percent of the unencumbered balance of the fund as determined at the beginning of the fiscal year.

B. The Director is authorized to expend from the Fund up to \$50,000 annually, but no more than ten percent of the Fund's balance, which shall be utilized as cost share with federal agencies in flood protection studies of statewide or regional significance.

§ 10.1-603.20. Condition for making loans or grants.

A. The ~~Board~~ Director may authorize a loan or grant under the provisions of § 10.1-603.19 only when the following conditions exist:

1. An application for the loan or grant has been submitted by the applicant in the manner and form specified by the ~~Board~~ Director, setting forth the amount of the loan or grant requested, and the use to which the loan or grant will be applied. The application shall describe in detail (i) the area to be studied or protected, including the population and the value of property to be protected, historic flooding data and hydrologic studies projecting flood frequency; (ii) the estimated cost-benefit ratio of the project; (iii) the ability of the locality to provide its share of the cost of the federal flood control study or project; and (iv) the administration of local flood plain management regulations; and (v) other necessary information to establish project or study priority.

2. The local public body agrees and furnishes assurance, satisfactory to the ~~Board~~ Director, that it will satisfactorily maintain any structure financed, in whole or in part, through the loans or grants provided under this article.

3. The purpose for which the loan or grant is sought is one described in § 10.1-603.19.

4. If the requested loan or grant is sought to acquire land, the ~~Board~~ Director shall require satisfactory evidence prior to acting on the request that the local public body will acquire the land if the loan or grant is made.

5. *A local public body is eligible to receive a grant once every five years, provided that it has a flood mitigation plan approved by the Director and has demonstrated satisfactory evidence of plan implementation. Lacking an approved plan the local public body is eligible for a grant once every ten years.*

6. *The Director shall award no grant which would reduce the available balance of the Fund below \$200,000; however, the Director may provide a loan from the unencumbered balance of the Fund.*

B. In addition to the condition for making loans established under this article, the ~~Board~~ Director may require of a local public body such covenants and conditions as the ~~Board~~ Director deems necessary or expedient to further the purpose of the loan.

C. The ~~Board~~ Director may consent to and approve any modification in the terms of any loan to any local public body subject to the regulations promulgated.

§ 10.1-603.22. Recovery of money due to Fund.

If a borrower defaults on any payment due the State Treasurer pursuant to § 10.1-603.21 or on any other obligation incurred pursuant to the provisions of this article, the amounts owed to the Fund by the borrower may be recovered by the State Comptroller, transferring to the Fund the amount of the payment due to the Fund from the distribution of state funds to which the defaulting borrower may be entitled pursuant to any state law, or any money which is to be paid into the Fund may be recoverable with interest by the Commonwealth, in the name of the ~~Board~~ Director, on motion in the Circuit Court of the City of Richmond. The Attorney General shall institute and prosecute such proceedings after a request for such action has been made by the ~~Board~~ Director.

**2. That the regulation adopted as VR 625-03-00 (Flood Prevention and Protection Assistance Fund), promulgated by the Virginia Soil and Water Conservation Board, is hereby renumbered VR 217-02-00, and shall remain in effect until amended or repealed by the Director of the Department of Conservation and Recreation.**

**3. That an emergency exists and this act is in force from its passage.**