

# 1995 RECONVENED SESSION

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HB2193ER

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 2.1-1.6, 2.1-504, 9-6.25:1, 10.1-1108, 28.2-1200, 28.2-1201, 28.2-1301, 28.2-1401, 41.1-3, 41.1-5, and 41.1-16 of the Code of Virginia; to amend the Code of Virginia by adding in Title 28.2 a chapter numbered 15, consisting of sections numbered 28.2-1500 through 28.2-1514; and to repeal § 41.1-4 of the Code of Virginia, relating to management of ungranted shores of the sea, marsh and meadowlands.*

[H 2193]

Approved

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

**1. That §§ 2.1-1.6, 2.1-504, 9-6.25:1, 10.1-1108, 28.2-1200, 28.2-1201, 28.2-1301, 28.2-1401, 41.1-3, 41.1-5, and 41.1-16 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 28.2 a chapter numbered 15, consisting of sections numbered 28.2-1500 through 28.2-1514, as follows:**

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for  
Aging, Advisory Board on the  
Agriculture and Consumer Services, Board of  
Air Pollution, State Advisory Board on  
Alcoholic Beverage Control Board, Virginia  
Apple Board, Virginia State  
Appomattox State Scenic River Advisory Board  
Aquaculture Advisory Board  
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for  
Art and Architectural Review Board  
Athletic Board, Virginia  
Auctioneers Board  
Audiology and Speech-Language Pathology, Board of  
Aviation Board, Virginia  
Barbers, Board for  
Branch Pilots, Board for  
Bright Flue-Cured Tobacco Board, Virginia  
Building Code Technical Review Board, State  
Catoctin Creek State Scenic River Advisory Board  
Cattle Industry Board, Virginia  
Cave Board  
Certified Seed Board, State  
Chesapeake Bay Local Assistance Board  
Chickahominy State Scenic River Advisory Board  
Child Abuse and Neglect, Advisory Board on  
Chippokes Plantation Farm Foundation, Board of Trustees  
Clinch Scenic River Advisory Board  
Coal Mining Examiners, Board of  
Coal Research and Development Advisory Board, Virginia  
Coal Surface Mining Reclamation Fund Advisory Board  
*Coastal Land Management Advisory Council, Virginia*  
Conservation and Development of Public Beaches, Board on  
Conservation and Recreation, Board of  
Contractors, Board for  
Corn Board, Virginia  
Correctional Education, Board of  
Corrections, State Board of  
Cosmetology, Board for  
Criminal Justice Services Board  
Dark-Fired Tobacco Board, Virginia

|     |   |
|-----|---|
| 57  | Deaf and Hard-of-Hearing, Advisory Board for the Department for the         |
| 58  | Dentistry, Board of   |
| 59  | Education, State Board of   |
| 60  | Egg Board, Virginia   |
| 61  | Emergency Medical Services Advisory Board                                   |
| 62  | Employment Agency Advisory Board  |
| 63  | Farmers Market Board, Virginia  |
| 64  | Film Office Advisory Board  |
| 65  | Fire Services Board, Virginia   |
| 66  | Forensic Science Advisory Board   |
| 67  | Forestry, Board of  |
| 68  | Funeral Directors and Embalmers, Board of                                   |
| 69  | Game and Inland Fisheries, Board of   |
| 70  | Geology, Board for  |
| 71  | Goose Creek Scenic River Advisory Board                                     |
| 72  | Health Planning Board, Virginia   |
| 73  | Health Professions, Board of  |
| 74  | Health, State Board of  |
| 75  | Hearing Aid Specialists, Board for  |
| 76  | Hemophilia Advisory Board   |
| 77  | Historic Resources, Board of  |
| 78  | Housing and Community Development, Board of                                 |
| 79  | Industrial Development Services Advisory Board                              |
| 80  | Insurance Advisory Board, State   |
| 81  | Irish Potato Board, Virginia  |
| 82  | Laboratory Services Advisory Board  |
| 83  | Marine Products Board, Virginia   |
| 84  | Medical Advisory Board, Department of Motor Vehicles                        |
| 85  | Medical Board of the Virginia Retirement System                             |
| 86  | Medicare and Medicaid, Advisory Board on                                    |
| 87  | Medicine, Board of  |
| 88  | Mental Health, Mental Retardation and Substance Abuse Services Board, State |
| 89  | Migrant and Seasonal Farmworkers Board                                      |
| 90  | Military Affairs, Board of  |
| 91  | Mineral Mining Examiners, Board of  |
| 92  | Minority Business Enterprise, Interdepartmental Board of the Department of  |
| 93  | Motor Vehicle Dealers' Advisory Board                                       |
| 94  | Networking Users Advisory Board, State                                      |
| 95  | Nottoway State Scenic River Advisory Board                                  |
| 96  | Nursing, Board of   |
| 97  | Nursing Home Administrators, Board of                                       |
| 98  | Occupational Therapy, Advisory Board on                                     |
| 99  | Oil and Gas Conservation Board, Virginia                                    |
| 100 | Opticians, Board for  |
| 101 | Optometry, Board of   |
| 102 | Peanut Board, Virginia  |
| 103 | Personnel Advisory Board  |
| 104 | Pesticide Control Board   |
| 105 | Pharmacy, Board of  |
| 106 | Physical Therapy to the Board of Medicine, Advisory Board on                |
| 107 | Plant Pollination Advisory Board  |
| 108 | Polygraph Examiners Advisory Board  |
| 109 | Pork Industry Board, Virginia   |
| 110 | Poultry Products Board, Virginia  |
| 111 | Private College Advisory Board  |
| 112 | Private Security Services Advisory Board                                    |
| 113 | Professional and Occupational Regulation, Board for                         |
| 114 | Professional Counselors, Board of   |
| 115 | Professional Soil Scientists, Board for                                     |
| 116 | Psychiatric Advisory Board  |
| 117 | Psychology, Board of  |

- 118 Public Buildings Board, Virginia
- 119 Public Telecommunications Board, Virginia
- 120 Radiation Advisory Board
- 121 Real Estate Appraiser Board
- 122 Real Estate Board
- 123 Reciprocity Board, Department of Motor Vehicles
- 124 Recreational Fishing Advisory Board, Virginia
- 125 Recreation Specialists, Board of
- 126 Reforestation Board
- 127 Rehabilitation Providers, Advisory Board on
- 128 Rehabilitative Services, Board of
- 129 Respiratory Therapy, Advisory Board on
- 130 Retirement System Review Board
- 131 Rockfish State Scenic River Advisory Board
- 132 Safety and Health Codes Board
- 133 Seed Potato Board
- 134 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 135 Shenandoah State Scenic River Advisory Board
- 136 Small Business Advisory Board
- 137 Small Business Environmental Compliance Advisory Board
- 138 Small Grains Board, Virginia
- 139 Social Services, Board of
- 140 Social Work, Board of
- 141 Soil and Water Conservation Board, Virginia
- 142 Soybean Board, Virginia
- 143 State Air Pollution Control Board
- 144 Substance Abuse Certification Board
- 145 Surface Mining Review, Board of
- 146 Sweet Potato Board, Virginia
- 147 Teacher Education and Licensure, Advisory Board on
- 148 Tourism and Travel Services Advisory Board
- 149 Toxic Substances Advisory Board
- 150 Transportation Board, Commonwealth
- 151 Transportation Safety, Board of
- 152 Treasury Board, The, Department of the Treasury
- 153 Veterans' Affairs, Board on
- 154 Veterinary Medicine, Board of
- 155 Virginia Board for Asbestos Licensing
- 156 Virginia Coal Mine Safety Board
- 157 Virginia Correctional Enterprises Advisory Board
- 158 Virginia Employment Commission, State Advisory Board for the
- 159 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
- 160 Virginia Horse Industry Board
- 161 Virginia Manufactured Housing Board
- 162 Virginia Retirement System, Board of Trustees
- 163 Virginia Waste Management Board
- 164 Visually Handicapped, Virginia Board for the
- 165 Voluntary Formulary Board, Virginia
- 166 War Memorial Foundation, Virginia, Board of Trustees
- 167 Waste Management Facility Operators, Board for
- 168 Water Resources Research Center Statewide Advisory Board, Virginia
- 169 Waterworks and Wastewater Works Operators, Board for
- 170 Well Review Board, Virginia
- 171 Youth and Family Services, State Board of.
- 172 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 173 referred to as boards:
- 174 Compensation Board
- 175 State Board of Elections
- 176 State Water Control Board
- 177 Virginia Parole Board
- 178 Virginia Veterans Care Center Board of Trustees.

179 § 2.1-504. Definitions.

180 As used in §§ 2.1-504.1 through 2.1-512, unless a different meaning clearly appears from the context:  
 181 "Institutions" shall include, but not be limited to, any corporation owned by the Commonwealth and  
 182 subject to the control of the General Assembly.

183 "Property" shall mean an interest in land and any improvements thereon held by the Commonwealth  
 184 and under the control of or occupied by any of its departments, agencies or institutions, but shall not  
 185 include (i) real estate or rights-of-way acquired by the Department of Transportation for the construction  
 186 of highways and (ii) *ungranted shores of the sea, marsh and meadowlands as defined in § 28.2-1500.*

187 "Recommend," "recommended," or "recommendation," when used with reference to a  
 188 recommendation by the Department of General Services to the Governor, shall mean to advise either for  
 189 or against a proposed action.

190 § 9-6.25:1. Advisory boards, commissions and councils.

191 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the  
 192 following advisory boards, commissions and councils within the executive branch:

193 Advisory Board for the Department for the Deaf and Hard-of-Hearing

194 Advisory Board for the Department for the Aging

195 Advisory Board on Child Abuse and Neglect

196 Advisory Board on Medicare and Medicaid

197 Advisory Board on Occupational Therapy

198 Advisory Board on Physical Therapy to the Board of Medicine

199 Advisory Board on Rehabilitation Providers

200 Advisory Board on Respiratory Therapy to the Board of Medicine

201 Advisory Board on Teacher Education and Licensure

202 Advisory Council on Revenue Estimates

203 Advisory Council on the Virginia Business-Education Partnership Program

204 Appomattox State Scenic River Advisory Board

205 Aquaculture Advisory Board

206 Art and Architectural Review Board

207 (Effective until July 1, 1995) Board for the Visually Handicapped

208 Board of Directors, Virginia Truck and Ornaments Research Station

209 Board of Forestry

210 Board of Military Affairs

211 Board of Rehabilitative Services

212 Board of Transportation Safety

213 Board of Trustees of the Family and Children's Trust Fund

214 Board of Visitors, Gunston Hall Plantation

215 Board on Veterans' Affairs

216 Catoctin Creek State Scenic River Advisory Board

217 Cave Board

218 Chickahominy State Scenic River Advisory Board

219 Clinch Scenic River Advisory Board

220 Coal Surface Mining Reclamation Fund Advisory Board

221 *Coastal Land Management Advisory Council, Virginia*

222 Council on Indians

223 Council on the Status of Women

224 Debt Capacity Advisory Committee

225 Emergency Medical Services Advisory Board

226 Falls of the James Committee

227 Film Office Advisory Board

228 Forensic Science Advisory Board

229 Goose Creek Scenic River Advisory Board

230 Governor's Council on Alcohol and Drug Abuse Problems

231 Governor's Mined Land Reclamation Advisory Committee

232 Hemophilia Advisory Board

233 Human Services Information and Referral Advisory Council

234 Industrial Development Services Advisory Board

235 Interagency Coordinating Council on Housing for the Disabled

236 Interdepartmental Board of the State Department of Minority Business Enterprise

237 Laboratory Services Advisory Board

238 Local Advisory Board to the Blue Ridge Community College

239 Local Advisory Board to the Central Virginia Community College

- 240 Local Advisory Board to the Dabney S. Lancaster Community College
- 241 Local Advisory Board to the Danville Community College
- 242 Local Advisory Board to the Eastern Shore Community College
- 243 Local Advisory Board to the Germanna Community College
- 244 Local Advisory Board to the J. Sargeant Reynolds Community College
- 245 Local Advisory Board to the John Tyler Community College
- 246 Local Advisory Board to the Lord Fairfax Community College
- 247 Local Advisory Board to the Mountain Empire Community College
- 248 Local Advisory Board to the New River Community College
- 249 Local Advisory Board to the Northern Virginia Community College
- 250 Local Advisory Board to the Patrick Henry Community College
- 251 Local Advisory Board to the Paul D. Camp Community College
- 252 Local Advisory Board to the Piedmont Virginia Community College
- 253 Local Advisory Board to the Rappahannock Community College
- 254 Local Advisory Board to the Southwest Virginia Community College
- 255 Local Advisory Board to the Thomas Nelson Community College
- 256 Local Advisory Board to the Tidewater Community College
- 257 Local Advisory Board to the Virginia Highlands Community College
- 258 Local Advisory Board to the Virginia Western Community College
- 259 Local Advisory Board to the Wytheville Community College
- 260 Long-Term Care Council
- 261 Maternal and Child Health Council
- 262 Medical Advisory Board, Department of Motor Vehicles
- 263 Medical Board of the Virginia Retirement System
- 264 Migrant and Seasonal Farmworkers Board
- 265 Motor Vehicle Dealer's Advisory Board
- 266 Nottoway State Scenic River Advisory Board
- 267 Personnel Advisory Board
- 268 Plant Pollination Advisory Board
- 269 Private College Advisory Board
- 270 Private Enterprise Commission
- 271 Private Security Services Advisory Board
- 272 Psychiatric Advisory Board
- 273 Radiation Advisory Board
- 274 Rappahannock Scenic River Advisory Board
- 275 Recreational Fishing Advisory Board, Virginia
- 276 Reforestation Board
- 277 Retirement System Review Board
- 278 Rockfish State Scenic River Advisory Board
- 279 Shenandoah State Scenic River Advisory Board
- 280 Small Business Advisory Board
- 281 Small Business Environmental Compliance Advisory Board
- 282 St. Mary's Scenic River Advisory Committee
- 283 State Advisory Board on Air Pollution
- 284 State Advisory Board for the Virginia Employment Commission
- 285 State Building Code Technical Review Board
- 286 State Council on Local Debt
- 287 State Health Benefits Advisory Council
- 288 State Insurance Advisory Board
- 289 State Land Evaluation Advisory Council
- 290 State Networking Users Advisory Board
- 291 State Public Records Advisory Council
- 292 Statewide Independent Living Council
- 293 Statewide Rehabilitation Advisory Council
- 294 Statewide Rehabilitation Advisory Council for the Blind
- 295 Staunton Scenic River Advisory Committee
- 296 Telecommunications Relay Service Advisory Board
- 297 Tourism and Travel Services Advisory Board
- 298 Toxic Substances Advisory Board
- 299 Virginia Advisory Commission on Intergovernmental Relations
- 300 Virginia Advisory Council for Adult Education and Literacy

301 Virginia Coal Mine Safety Board  
 302 Virginia Coal Research and Development Advisory Board  
 303 Virginia Commission for the Arts  
 304 Virginia Commission on the Bicentennial of the United States Constitution  
 305 Virginia Correctional Enterprises Advisory Board  
 306 Virginia Council on Coordinating Prevention  
 307 Virginia Equal Employment Opportunity Council  
 308 Virginia Interagency Coordinating Council  
 309 Virginia Military Advisory Council  
 310 Virginia Public Buildings Board  
 311 Virginia Recycling Markets Development Council  
 312 Virginia Technology Council  
 313 Virginia Transplant Council  
 314 Virginia Water Resources Research Center, Statewide Advisory Board  
 315 Virginia Winegrowers Advisory Board.

316 § 10.1-1108. Waste and unappropriated lands.

317 Any waste and unappropriated land, other than ~~unappropriated~~ *ungranted shores of the sea*, marsh or  
 318 meadowlands ~~lying on the eastern shore of Virginia~~ exempted from ~~entry and~~ grant by the provisions of  
 319 ~~§ 41.1-4~~ *41.1-3*, may be set apart permanently for use as state forest land, by a grant and proclamation  
 320 signed by the Governor upon the receipt from the State Forester of an application requesting that a  
 321 certain piece, tract or parcel of waste and unappropriated land be so set apart. The State Forester shall  
 322 submit with the application a copy of a report describing fully the location of the land, its character and  
 323 suitability for forestry purposes together with a complete metes and bounds description of the boundary  
 324 of the tract. The Department of General Services shall review the application and recommend either  
 325 approval or disapproval of the transaction to the Governor. If the Governor determines that the land is  
 326 more valuable for forestry purposes than for agricultural or any other purposes, he may authorize the  
 327 preparation of a grant which shall be reviewed for legal sufficiency by the Attorney General for the  
 328 Governor's signature and the lesser seal of the Commonwealth.

329 All lands so granted shall be subject to statutes and regulations relating to the regulation,  
 330 management, protection and administration of state forests.

331 § 28.2-1200. Ungranted beds of bays, rivers, creeks and shores of the sea to remain in common.

332 All the beds of the bays, rivers, creeks and the shores of the sea within the jurisdiction of the  
 333 Commonwealth, not conveyed by special grant or compact according to law, shall remain the property  
 334 of the Commonwealth and may be used as a common by all the people of the Commonwealth for the  
 335 purpose of fishing, fowling, *hunting*, and taking and catching oysters and other shellfish. No grant shall  
 336 be issued by the State Librarian to pass any estate or interest of the Commonwealth in any natural  
 337 oyster bed, rock, or shoal, whether or not it ebbs bare.

338 § 28.2-1201. Ungranted islands which rise from lands which are property of the Commonwealth.

339 *A. Except as otherwise provided in subsections B and C hereof, all ungranted islands which rise by*  
 340 *natural or artificial causes from lands which are a common the beds of bays, rivers and creeks that are*  
 341 *ungranted under § 28.2-1200 shall remain in public ownership and continue as a common the property*  
 342 *of the Commonwealth and shall be managed by the Commission as provided in Article 2 (§ 28.2-1503 et*  
 343 *seq.) of Chapter 15 of this title. This section shall not apply to accretions to privately owned lands or*  
 344 *islands, whether or not they are used as commons. In case of any conflict between the provisions of this*  
 345 *subsection and the common law of accretion, reliction and avulsion, such common law shall control.*

346 *B. Any unappropriated island or land that is owned by the Commonwealth, whether currently in*  
 347 *existence or subsequently created, that now or hereafter abuts a barrier island of the Eastern Shore is*  
 348 *hereby dedicated as a natural area preserve within the meaning of § 10.1-213 shall remain the property*  
 349 *of the Commonwealth and shall be managed by the Commission as provided in Article 2 (§ 28.2-1503 et*  
 350 *seq.) of Chapter 15 of this title.*

351 *C. This section shall not apply to accretions to privately owned lands or islands, whether or not they*  
 352 *are used as commons.*

353 § 28.2-1301. Powers and duties of the Commission.

354 A. The Commission may receive gifts, grants, bequests, and devises of wetlands and money which  
 355 shall be held for the uses prescribed by the donor, grantor, or testator and in accordance with the  
 356 provisions of this chapter. The Commission shall manage any wetlands it receives so as to maximize  
 357 their ecological value *as provided in Article 2 (§ 28.2-1503 et seq.) of Chapter 15 of this title.*

358 B. The Commission shall preserve and prevent the despoliation and destruction of wetlands while  
 359 accommodating necessary economic development in a manner consistent with wetlands preservation.

360 C. ~~The Commission shall manage all unappropriated marsh or meadowlands lying on the Eastern~~  
 361 ~~Shore of Virginia which remain ungranted pursuant to the provisions of § 41.1-4.~~

D. In order to perform its duties under this section and to assist counties, cities, and towns in regulating wetlands, the Commission shall promulgate and periodically update guidelines which scientifically evaluate vegetated and nonvegetated wetlands by type and describe the consequences of use of these wetlands types. The Virginia Institute of Marine Science shall provide advice and assistance to the Commission in developing these guidelines by evaluating wetlands by type and continuously maintaining and updating an inventory of vegetated wetlands.

E. D. In developing guidelines or regulations under this chapter the Commission shall consult with all affected state agencies. Consistent with other legal rights, consideration shall be given to the unique character of the Commonwealth's tidal wetlands which are essential for the production of marine and inland wildlife, waterfowl, finfish, shellfish and flora; serve as a valuable protective barrier against floods, tidal storms and the erosion of the Commonwealth's shores and soil; are important for the absorption of silt and pollutants; and are important for recreational and aesthetic enjoyment of the people and for the promotion of tourism, navigation and commerce.

§ 28.2-1401. Powers and duties of Commission.

A. The Commission may receive gifts, grants, bequests, and devises of coastal primary sand dunes, beaches, and money which shall be held for the uses prescribed by the donor, grantor, or testator and in accordance with the provisions of this chapter.

B. The Commission shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. Whenever practical, the Commission shall accommodate necessary economic development in a manner consistent with the protection of these features. The Commission shall manage any coastal primary sand dunes and beaches it receives so as to maximize their ecological value as provided in Article 2 (§ 28.2-1503 et seq.) of Chapter 15 of this title.

C. In order to perform its duties under this section and to assist counties, cities and towns in regulating coastal primary sand dunes and beaches, the Commission shall, with the advice and assistance of the Virginia Institute of Marine Science, promulgate guidelines which describe the consequences of use of these dunes and beaches.

D. In developing guidelines or regulations under this chapter, the Commission shall consult with all affected state agencies. Consistent with other legal rights, consideration shall be given to the importance of coastal primary sand dunes with their unique physiographic features which, in their natural state, serve as protective barriers from the effects of flooding and erosion caused by coastal storms, thereby protecting life and property; provide an essential source of natural sand replenishment for beaches and an important natural habitat for coastal fauna; and enhance the scenic and recreational attractiveness of Virginia's coastal area.

## CHAPTER 15.

### UNGRANTED SHORES OF THE SEA, MARSHES AND MEADOWLANDS.

#### Article 1.

#### General Provisions.

§ 28.2-1500. Definitions.

*As used in this chapter, unless the context requires a different meaning:*

*"Beach" shall have the same meaning ascribed thereto in subsection A of § 28.2-1400.*

*"Initial inventory" means a set of maps prepared by, at the direction of, or with the approval of the Commission which have been filed prior to January 1, 1995, with the clerk of the circuit court and the commissioner of revenue in any county in that portion of the Commonwealth separated from the larger portion of the Commonwealth by the Chesapeake Bay and in which the ungranted shores of the sea, marsh and meadowlands mapped therein are located.*

*"Inventory" means a set of maps prepared by, at the direction of, or with the approval of the Commission, mapping certain ungranted shores of the sea, marsh and meadowlands in any county in that portion of the Commonwealth separated from the larger portion of the Commonwealth by the Chesapeake Bay.*

*"Marsh" or "meadowland" shall have the same meaning ascribed to vegetated wetlands in § 28.2-1300.*

*"Shores of the sea" means a beach or any unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.*

*"Ungranted shores of the sea, marsh or meadowlands" means (i) shores of the sea which were not conveyed by special grant or compact according to law prior to April 1, 1873, and which have not been conveyed by special grant of the General Assembly on or after that date and (ii) marsh or meadowlands which were not appropriated and remained ungranted prior to February 24, 1888, and which have not been conveyed by special grant of the General Assembly on or after that date.*

*"Virginia Coastal Land Management Advisory Council" or "Council" means the Virginia Coastal Land Management Advisory Council created pursuant to § 28.2-1505.*

§ 28.2-1501. Powers and duties of Commission.

A. The Commission may receive gifts, grants, bequests, and devises of shores of the sea, marsh, meadowlands, and money which shall be held for the uses prescribed by the donor, grantor, or testator in accordance with the provisions of this chapter. The Commission shall manage any shores of the sea, marsh or meadowlands it receives as prescribed in Article 2 (§ 28.2-1503 et seq.) of this chapter.

B. The Commission may promulgate regulations and guidelines necessary to carry out the provisions of this chapter.

§ 28.2-1502. Ownership of ungranted shores of the sea, marsh and meadowlands.

All ungranted shores of the sea, marsh and meadowlands shall remain the property of the Commonwealth. Such ungranted marsh and meadowlands which have been used as a commons by the people of the Commonwealth shall continue as a commons for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. All ungranted shores of the sea may be used as a commons for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. The Commission shall manage all ungranted shores of the sea, marsh and meadowlands as provided in Article 2 (§ 28.2-1503 et seq.) of this chapter.

#### Article 2.

Management of Ungranted Shores of the Sea, Marsh and Meadowlands.

§ 28.2-1503. Management of lands.

The Commission shall manage all ungranted shores of the sea, marsh and meadowlands, and all other lands of the Commonwealth for which management duties have been given to the Commission, as steward for the property interests of the Commonwealth. All agencies of the Commonwealth shall cooperate with the Commission and, upon request, shall assist the Commission in the performance of its duties and responsibilities under this chapter.

§ 28.2-1504. Preparation of management plan.

A. The Commission shall prepare and implement a plan for the management of the Commonwealth's ungranted shores of the sea, marsh and meadowlands. The management plan, and any regulations and guidelines promulgated to implement the management plan, shall conserve and protect the shores of the sea, marsh and meadowlands, and the natural values and natural processes associated therewith. To the extent not inconsistent with that goal, the management plan shall also consider the traditional uses of such properties and the promotion of tourism and commerce. Through methods consistent with that goal, the management plan, and any regulations and guidelines promulgated to implement the management plan, shall recognize the use of such properties, where they have been so used in the past, as a commons by the people of the Commonwealth for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. The Commission shall review the management plan every five years.

B. In developing regulations, guidelines, or management plans under this chapter, the Commission shall consult with the Virginia Coastal Land Management Advisory Council.

§ 28.2-1505. Virginia Coastal Land Management Advisory Council established.

A. There is hereby created the Virginia Coastal Land Management Advisory Council. The Council shall advise the Commission on issues relating to the management of ungranted shores of the sea, marsh and meadowlands, and shall advise the Commission on the development of the management plan prepared pursuant to § 28.2-1504.

B. The Council shall consist of six members appointed by the Governor, who shall be residents of a county in which there are ungranted shores of the sea, marsh or meadowlands, and who shall represent tourism and commerce, traditional uses of shores of the sea, marsh and meadowlands, and conservation interests; however, if any private person or entity owns more than fifty percent of the land area of the barrier islands of the Eastern Shore that are privately owned, such person or entity shall be one of such members. In appointing these members, the Governor shall consider recommendations submitted by the boards of supervisors of counties in which the Commission is managing the largest portions of the ungranted shores of the sea, marsh or meadowlands. The Council shall also include (i) the Director of the Department of Conservation and Recreation or his designee, (ii) the Director of the Department of Game and Inland Fisheries or his designee, and (iii) the Commissioner or his designee.

C. The term of office of each appointed member shall be for three years. Appointments to fill vacancies shall be made to fill the unexpired term.

D. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses.

E. The Council shall meet at the call of the Commissioner or a least once per year.

§ 28.2-1506. Filing of initial inventories; amended or supplemental inventories.

Whenever any privately owned land in any of such counties is to be transferred, and the transferor or the transferee requests clarification as to whether any portion of such land is claimed by the Commonwealth as ungranted shores of the sea, marsh or meadowlands, the Commission shall review the matter, and, if it determines that all or any portion of such land constitutes ungranted shores of the sea,



marsh or meadowlands, the Commission shall file an amended or supplemental inventory as it may deem appropriate. Any such amended or supplemental inventory shall be filed in the same offices as the initial inventory for such area. The Commission shall not prepare or file any such amended or supplemental inventory unless (1) such classification is requested by a transferor or transferee as provided herein, or (2) (a) the federal government has asserted title to any ungranted shores of the sea, marsh or meadowlands excluding the Wallops Island Naval/Aegis facility and all land adjacent thereto lying to the south that is used for a federal National Wildlife Refuge, (b) both the Governor and Attorney General concur in writing that all or any of the property to which the federal government has asserted title constitutes ungranted shores of the sea, marsh or meadowlands, and (c) such amended or supplemental inventory only asserts the Commonwealth's title to the portion of such property that constitutes ungranted shores of the sea, marsh or meadowlands as concurred in by the Governor and the Attorney General.

#### Article 3.

##### *Inventories of Certain Ungranted Shores of the Sea, Marsh and Meadowlands.*

##### *§ 28.2-1507. Notice of filing of inventories.*

A. The Commission shall cause to be published, within ninety days following the effective date of this section, in a newspaper of general circulation published at the state capital, in a newspaper having general circulation in the counties where the initial inventories have been filed, and in such other newspapers in the Commonwealth as the Commission generally publishes notices pursuant to subsection F of § 9-6.14:7.1, a notice of the filing of the initial inventories. The notice shall state that any person claiming ownership of an interest in lands designated in an initial inventory as ungranted shores of the sea, marsh or meadowlands is required to assert the claim as provided in § 28.2-1509 within two years following the effective date of this section, or any action to assert such claim shall be barred.

B. The Commission shall cause to be published a notice of the filing of any amended or supplemental inventory in a newspaper having general circulation in the county for which such amended or supplemental inventory applies. The notice shall refer to the initial inventory and any previous amended or supplemental inventory with respect thereto, and shall state that any person claiming ownership of an interest in lands designated therein as ungranted shores of the sea, marsh or meadowlands is required to assert the claim as provided in § 28.1-1509 within two years following the filing of the amended or supplemental inventory, or any action to assert such claim shall be barred.

C. The failure of the Commission to comply with the requirements of this section shall not impair the Commonwealth's rights of ownership in any ungranted shores of the sea, marsh, or meadowlands.

##### *§ 28.2-1508. Effect of inventories.*

The failure to include any ungranted shores of the sea, marsh or meadowlands in an initial inventory shall not affect the Commonwealth's rights of ownership in such property.

#### Article 4.

##### *Resolution of Conflicting Claims to Inventoried Property.*

##### *§ 28.2-1509. Claims to lands designated in an inventory.*

A. Any person claiming ownership of an interest in lands designated as ungranted shores of the sea, marsh or meadowland in an initial inventory, or in any amended or supplemental inventory, may bring an action for declaratory judgment to determine title to the land pursuant to § 8.01-184, an action to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment pursuant to § 8.01-131.

B. Any action pursuant to subsection A with respect to lands designated as ungranted shores of the sea, marsh or meadowland in an initial inventory shall be brought within two years following the effective date of this section. Any action to assert a claim in such land shall be barred unless brought within such two-year period.

C. Any action pursuant to subsection A with respect to lands designated as ungranted shores of the sea, marsh or meadowland in an amended or supplemental inventory shall be brought within two years following the filing of such amended or supplemental inventory. Any action to assert a claim in such lands shall be barred unless brought within such two-year period.

D. Upon entry of a final judgment ruling that any lands designated in an initial inventory, or in an amended or supplemental inventory, as ungranted shores of the sea, marsh or meadowlands are not property of the Commonwealth, the Commission shall file an amended inventory correcting its designation of such property.

##### *§ 28.2-1510. Approval of amended or supplemental inventory.*

The Commission shall not approve an amended or supplemental inventory, if such amended or supplemental inventory initially designates a parcel of land as ungranted shores of the sea, marsh or meadowlands, until notice of the Commission's intention so to do has been published once a week for two successive weeks in a newspaper having general circulation in the county where such land is located. Such notice shall specify the time and place of a public hearing at which persons affected may

appear and present their views. In addition, the Commission shall give written notice of the amended or supplemental inventory, and of the public hearing, to the owner or owners of each parcel so designated, if known, by postpaid mail to the address of the owner as shown in the land records of the circuit court for the county. Nothing in this section shall be construed to invalidate any subsequently filed amended or supplemental inventory because of the inadvertent failure of the Commission to give written notice to any person listed as having an ownership interest in such land in the land records of the circuit court for the county. After the public hearing, the Commission may approve, amend, or disapprove such amended or supplemental inventory.

§ 28.2-1511. Claims to ungranted shores of the sea, marsh and meadowlands proposed for designation in amended or supplemental inventory.

A. The Commission shall not file any amended or supplemental inventory, if such amended or supplemental inventory initially designates a parcel of land as ungranted shores of the sea, marsh or meadowland, unless the Commission has approved such amended or supplemental inventory as provided in § 28.2-1510. The Commission shall give notice of its intention to file such amended or supplemental inventory to any person listed as having an ownership interest in such land in the land records of the circuit court for the county. The notice shall be sent by postpaid mail to the address of the person as shown on the land book. The Commission shall also cause notice of its intent to file an amended or supplemental inventory to be published in a newspaper of general circulation in the county where such land is located.

B. Any person claiming ownership of an interest in lands described in a notice given pursuant to subsection A may bring an action for declaratory judgment to determine title to the land pursuant to § 8.01-184, to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment pursuant to § 8.01-131. Any such action shall be brought within two years following publication of the notice pursuant to subsection A; however, the failure of a person claiming ownership of such lands to commence an action within the two-year period as provided in this subsection shall not bar such person from asserting a claim of ownership as provided in § 28.2-1509.

C. If an action is not commenced within the two-year period as provided in subsection B, the Commission may file an amended or supplemental inventory designating as ungranted shores of the sea, marsh or meadowlands the parcels as to which no action has been commenced. Upon filing the amended or supplemental inventory, the Commission shall cause to be published a notice as provided in subsection B of § 28.2-1507.

D. If an action is commenced within the two-year period as provided in subsection B, the Commission shall not, during the pendency of the action, file an amended or supplemental inventory designating the land which is the subject of the action as ungranted shores of the sea, marsh or meadowlands. Upon the entry of a final judgment ruling that any of such land is not the property of the Commonwealth, the Commission shall correct the amended or supplemental inventory to remove any designation of such land as ungranted shores of the sea, marsh or meadowland. The Commission may then file the corrected amended or supplemental inventory. Upon the entry of a final judgment ruling that such land is the property of the Commonwealth, the Commission may file an amended or supplemental inventory designating such land as ungranted shores of the sea, marsh or meadowlands, and further such final judgment shall bar the assertion of a like claim in any action brought to assert ownership of such land pursuant to § 28.2-1509. Upon filing an amended or supplemental inventory, the Commission shall cause to be published the notice as provided in subsection B of § 28.2-1507.

§ 28.2-1512. Effect of disability.

The provisions of § 8.01-237 shall apply with respect to the effect of disabilities on the preservation of a right to bring an action to establish ownership of land pursuant to §§ 28.2-1509 and 28.2-1511.

§ 28.2-1513. Filing of notice of lis pendens.

The Commissioner is authorized to record a notice of lis pendens in order to provide notice of the Commonwealth's claim of ownership of any property designated in an initial inventory, or in an amended or supplemental inventory filed as provided in § 28.2-1506, as ungranted shores of the sea, marsh or meadowland. The notice shall set forth the name of any person who has, or has asserted, an interest in the property, a description of the property, and a statement that the Commission has determined that the property is ungranted shores of the sea, marsh, or meadowland and is designated as such on a filed inventory. The notice shall be admitted to record in the clerk's office of the county wherein the property is located.

§ 28.2-1514. Historical evidence.

In any administrative proceeding before the Commission under this chapter, or in any proceeding for the resolution of conflicting claims to inventoried property under Article 4 (§ 28.2-1509 et seq.) of this chapter, the Commission or court may consider any relevant and credible evidence including, but not limited to, deeds, grants, maps, plats or other historical documents.

§ 41.1-3. Grants of certain lands, etc., to be void; such lands, etc., under control of Governor.

No grant shall be valid or effectual in law to pass any estate or interest in (i) any lands unappropriated or belonging to the Commonwealth, which embrace the old magazine at Westham, or any stone quarry now worked by the Commonwealth, or any lands which are within a mile of such magazine, or any such quarry; (ii) any ~~lands which are a common~~ *ungranted beds of bays, rivers, creeks and the shores of the sea* under § 28.2-1200; (iii) any natural oyster bed, rock, or shoal, whether such bed, rock, or shoal shall ebb bare or not; (iv) any islands created in the navigable waters of the Commonwealth through the instrumentality of dredging or filling operations; ~~or~~ (v) any islands which rise from any ~~beds lands which are a common~~ *property of the Commonwealth* under § ~~28.2-1200~~ *28.2-1201*; or (vi) *any ungranted shores of the sea, marsh or meadowlands as defined in § 28.2-1500*. Every such grant for any such lands, islands, bed, rock, or shoal shall be absolutely void; however, this section shall not be construed to affect the title to grants issued prior to March 15, 1932. Such magazine and every such stone quarry and the lands of the Commonwealth adjacent to or in their neighborhood, shall be under the control of the Governor, who may make such regulations concerning the same as he may deem best for the interests of the Commonwealth.

§ 41.1-5. Circuit courts authorized to dispose of waste and unappropriated lands.

The circuit courts of the counties and cities in which waste and unappropriated lands are alleged to lie are vested with authority to sell and dispose thereof in proceedings brought under §§ 41.1-16 through 41.1-20; however, no sale or disposition shall be made of lands mentioned in § 28.2-1200 or of lands as to which a grant could not have been issued by the State Librarian under §§ 41.1-3, ~~41.1-4~~, ~~or~~ ~~§ 41.1-4.1~~.

§ 41.1-16. Sale of wastelands; proceeding by citizen resident; motion and deposit for costs; parties; copy of plat.

Any citizen, resident of this Commonwealth, who has reason to believe that there are waste and unappropriated lands in this Commonwealth (not being a ~~common~~ ~~under § 28.2-1200~~ ~~or~~ excluded under §§ 41.1-3 ~~and~~ ~~41.1-4~~ from grant), shall have the right to file a proceeding in the name of the county or city seeking the sale and disposition of such land. The venue for such a proceeding shall be as specified in subdivision 3 of § 8.01-261. The proceeding shall be instituted by motion signed by the party who institutes the proceeding, or on his behalf, and shall be accompanied with a deposit to cover the costs of the proceeding but in no event to exceed \$100. Each landowner adjoining the tract in question shall be made a party to the proceedings.

He shall file with the motion a copy of a plat prepared by a licensed land surveyor giving the metes and bounds of the land alleged to be waste and unappropriated. A copy of the motion and plat shall be served upon each of the landowners adjoining the tract in question.

**2. That § 41.1-4 of the Code of Virginia is repealed.**