

1995 SESSION

HOUSE SUBSTITUTE

LD5793132

HOUSE BILL NO. 2193

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Chesapeake and Its Tributaries
on February 4, 1995)

(Patron Prior to Substitute—Delegate Bloxom)

A *BILL 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.*

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

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

HOUSE
SUBSTITUTE

HB2193H1

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

- 122 Radiation Advisory Board
- 123 Real Estate Appraiser Board
- 124 Real Estate Board
- 125 Reciprocity Board, Department of Motor Vehicles
- 126 Recreational Fishing Advisory Board, Virginia
- 127 Recreation Specialists, Board of
- 128 Reforestation Board
- 129 Rehabilitation Providers, Advisory Board on
- 130 Rehabilitative Services, Board of
- 131 Respiratory Therapy, Advisory Board on
- 132 Retirement System Review Board
- 133 Rockfish State Scenic River Advisory Board
- 134 Safety and Health Codes Board
- 135 Seed Potato Board
- 136 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 137 Shenandoah State Scenic River Advisory Board
- 138 Small Business Advisory Board
- 139 Small Business Environmental Compliance Advisory Board
- 140 Small Grains Board, Virginia
- 141 Social Services, Board of
- 142 Social Work, Board of
- 143 Soil and Water Conservation Board, Virginia
- 144 Soybean Board, Virginia
- 145 State Air Pollution Control Board
- 146 Substance Abuse Certification Board
- 147 Surface Mining Review, Board of
- 148 Sweet Potato Board, Virginia
- 149 Teacher Education and Licensure, Advisory Board on
- 150 Tourism and Travel Services Advisory Board
- 151 Toxic Substances Advisory Board
- 152 Transportation Board, Commonwealth
- 153 Transportation Safety, Board of
- 154 Treasury Board, The, Department of the Treasury
- 155 Veterans' Affairs, Board on
- 156 Veterinary Medicine, Board of
- 157 Virginia Board for Asbestos Licensing
- 158 Virginia Coal Mine Safety Board
- 159 Virginia Correctional Enterprises Advisory Board
- 160 Virginia Employment Commission, State Advisory Board for the
- 161 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
- 162 Virginia Horse Industry Board
- 163 Virginia Manufactured Housing Board
- 164 Virginia Retirement System, Board of Trustees
- 165 Virginia Waste Management Board
- 166 Visually Handicapped, Virginia Board for the
- 167 Voluntary Formulary Board, Virginia
- 168 War Memorial Foundation, Virginia, Board of Trustees
- 169 Waste Management Facility Operators, Board for
- 170 Water Resources Research Center Statewide Advisory Board, Virginia
- 171 Waterworks and Wastewater Works Operators, Board for
- 172 Well Review Board, Virginia
- 173 Youth and Family Services, State Board of.
- 174 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 175 referred to as boards:
- 176 Compensation Board
- 177 State Board of Elections
- 178 State Water Control Board
- 179 Virginia Parole Board
- 180 Virginia Veterans Care Center Board of Trustees.
- 181 § 2.1-504. Definitions.
- 182 As used in §§ 2.1-504.1 through 2.1-512, unless a different meaning clearly appears from the context:

183 "Institutions" shall include, but not be limited to, any corporation owned by the Commonwealth and
184 subject to the control of the General Assembly.

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

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

192 § 9-6.25:1. Advisory boards, commissions and councils.

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

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

196 Advisory Board for the Department for the Aging

197 Advisory Board on Child Abuse and Neglect

198 Advisory Board on Medicare and Medicaid

199 Advisory Board on Occupational Therapy

200 Advisory Board on Physical Therapy to the Board of Medicine

201 Advisory Board on Rehabilitation Providers

202 Advisory Board on Respiratory Therapy to the Board of Medicine

203 Advisory Board on Teacher Education and Licensure

204 Advisory Council on Revenue Estimates

205 Advisory Council on the Virginia Business-Education Partnership Program

206 Appomattox State Scenic River Advisory Board

207 Aquaculture Advisory Board

208 Art and Architectural Review Board

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

210 Board of Directors, Virginia Truck and Ornamentals Research Station

211 Board of Forestry

212 Board of Military Affairs

213 Board of Rehabilitative Services

214 Board of Transportation Safety

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

216 Board of Visitors, Gunston Hall Plantation

217 Board on Veterans' Affairs

218 Catoctin Creek State Scenic River Advisory Board

219 Cave Board

220 Chickahominy State Scenic River Advisory Board

221 Clinch Scenic River Advisory Board

222 Coal Surface Mining Reclamation Fund Advisory Board

223 *Coastal Land Management Advisory Council, Virginia*

224 Council on Indians

225 Council on the Status of Women

226 Debt Capacity Advisory Committee

227 Emergency Medical Services Advisory Board

228 Falls of the James Committee

229 Film Office Advisory Board

230 Forensic Science Advisory Board

231 Goose Creek Scenic River Advisory Board

232 Governor's Council on Alcohol and Drug Abuse Problems

233 Governor's Mined Land Reclamation Advisory Committee

234 Hemophilia Advisory Board

235 Human Services Information and Referral Advisory Council

236 Industrial Development Services Advisory Board

237 Interagency Coordinating Council on Housing for the Disabled

238 Interdepartmental Board of the State Department of Minority Business Enterprise

239 Laboratory Services Advisory Board

240 Local Advisory Board to the Blue Ridge Community College

241 Local Advisory Board to the Central Virginia Community College

242 Local Advisory Board to the Dabney S. Lancaster Community College

243 Local Advisory Board to the Danville Community College

244 Local Advisory Board to the Eastern Shore Community College

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

306 Virginia Commission on the Bicentennial of the United States Constitution
307 Virginia Correctional Enterprises Advisory Board
308 Virginia Council on Coordinating Prevention
309 Virginia Equal Employment Opportunity Council
310 Virginia Interagency Coordinating Council
311 Virginia Military Advisory Council
312 Virginia Public Buildings Board
313 Virginia Recycling Markets Development Council
314 Virginia Technology Council
315 Virginia Transplant Council
316 Virginia Water Resources Research Center, Statewide Advisory Board
317 Virginia Winegrowers Advisory Board.

318 § 10.1-1108. Waste and unappropriated lands.

319 Any waste and unappropriated land, other than ~~unappropriated~~ *ungranted shores of the sea*, marsh or
320 meadowlands ~~lying on the eastern shore of Virginia~~ exempted from entry and grant by the provisions of
321 § ~~41.1-441.1-3~~, may be set apart permanently for use as state forest land, by a grant and proclamation
322 signed by the Governor upon the receipt from the State Forester of an application requesting that a
323 certain piece, tract or parcel of waste and unappropriated land be so set apart. The State Forester shall
324 submit with the application a copy of a report describing fully the location of the land, its character and
325 suitability for forestry purposes together with a complete metes and bounds description of the boundary
326 of the tract. The Department of General Services shall review the application and recommend either
327 approval or disapproval of the transaction to the Governor. If the Governor determines that the land is
328 more valuable for forestry purposes than for agricultural or any other purposes, he may authorize the
329 preparation of a grant which shall be reviewed for legal sufficiency by the Attorney General for the
330 Governor's signature and the lesser seal of the Commonwealth.

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

333 § 28.2-1200. Ungranted beds of bays, rivers, creeks and shores of the sea to remain in common.

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

340 § 28.2-1201. Ungranted islands which rise from lands which are property of the Commonwealth.

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

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

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

356 § 28.2-1301. Powers and duties of the Commission.

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

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

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

365 D. In order to perform its duties under this section and to assist counties, cities, and towns in
366 regulating wetlands, the Commission shall promulgate and periodically update guidelines which
367 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.

ED. 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 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.

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 (i) the traditional uses of such properties, (ii) the promotion of tourism and commerce, and (iii) 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 at the initial inventory for such area.

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

552 circuit court for the county. The notice shall be sent by postpaid mail to the address of the person as
553 shown on the land book. The Commission shall also cause notice of its intent to file an amended or
554 supplemental inventory to be published in a newspaper of general circulation in the county where such
555 land is located.

556 B. Any person claiming ownership of an interest in lands described in a notice given pursuant to
557 subsection A may bring an action for declaratory judgment to determine title to the land pursuant to
558 § 8.01-184, to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment
559 pursuant to § 8.01-131. Any such action shall be brought within two years following publication of the
560 notice pursuant to subsection A; however, the failure of a person claiming ownership of such lands to
561 commence an action within the two-year period as provided in this subsection shall not bar such person
562 from asserting a claim of ownership as provided in § 28.2-1509.

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

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

580 § 28.2-1512. Effect of disability.

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

583 § 28.2-1513. Filing of notice of lis pendens.

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

592 § 28.2-1514. Historical Evidence.

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

597 § 41.1-3. Grants of certain lands, etc., to be void; such lands, etc., under control of Governor.

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

612 § 41.1-5. Circuit courts authorized to dispose of waste and unappropriated lands.

613 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.