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HOUSE BILL NO. 1095

Offered January 22, 1996

A *BILL to amend and reenact §§ 2.1-1.5, 2.1-1.6, 3.1-1021, 3.1-1025, 9-6.25:1, 29.1-103, 29.1-566, 58.1-345, and 58.1-345.1 of the Code of Virginia; to amend the Code of Virginia by adding in Title 29.1 a chapter numbered 9, consisting of sections numbered 29.1-900 through 29.1-909, and a chapter numbered 10, consisting of sections numbered 29.1-1000 through 29.1-1008; and to repeal Article 3 (§§ 10.1-209 through 10.1-217) of Chapter 2 of Title 10.1 and Chapter 10 (§§ 10.1-1000 through 10.1-1008) of Title 10.1, relating to the transfer of the Virginia Natural Area Preserves Act and the Cave Protection Act.*

Patron—Marshall (By Request)

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 2.1-1.6, 3.1-1021, 3.1-1025, 9-6.25:1, 29.1-103, 29.1-566, 58.1-345, and 58.1-345.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 29.1 a chapter numbered 9, consisting of sections numbered 29.1-900 through 29.1-909, and a chapter numbered 10, consisting of sections numbered 29.1-1000 through 29.1-1008 as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.
Richmond Eye and Ear Hospital Authority.
Small Business Financing Authority.
State Education Assistance Authority.
Virginia Agriculture Development Authority.
Virginia College Building Authority.
Virginia Economic Development Partnership.
Virginia Education Loan Authority.
Virginia Housing Development Authority.
Virginia Innovative Technology Authority.
Virginia Port Authority.
Virginia Public Building Authority.
Virginia Public School Authority.
Virginia Resources Authority.
Virginia Student Assistance Authorities.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
Board of Commissioners, Virginia Port Authority.
Board of Directors, Assistive Technology Loan Fund Authority.
Board of Directors, Richmond Eye and Ear Hospital Authority.
Board of Directors, Small Business Financing Authority.
Board of Directors, Virginia Economic Development Partnership.
Board of Directors, Virginia Student Assistance Authorities.
Board of Directors, Virginia Innovative Technology Authority.
Board of Directors, Virginia Resources Authority.
Board of Regents, Gunston Hall Plantation.
Board of Regents, James Monroe Memorial Law Office and Library.
Board of Trustees, Family and Children's Trust Fund.
Board of Trustees, Frontier Culture Museum of Virginia.
Board of Trustees, Jamestown-Yorktown Foundation.
Board of Trustees, Miller School of Albemarle.
Board of Trustees, Rural Virginia Development Foundation.
Board of Trustees, The Science Museum of Virginia.
Board of Trustees, Virginia Museum of Fine Arts.
Board of Trustees, Virginia Museum of Natural History.

INTRODUCED

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60	Board of Trustees, Virginia Outdoor Foundation.
61	Board of the Virginia Higher Education Tuition Trust Fund.
62	Board of Visitors, Christopher Newport University.
63	Board of Visitors, The College of William and Mary in Virginia.
64	Board of Visitors, George Mason University.
65	Board of Visitors, Gunston Hall Plantation.
66	Board of Visitors, James Madison University.
67	Board of Visitors, Longwood College.
68	Board of Visitors, Mary Washington College.
69	Board of Visitors to Mount Vernon.
70	Board of Visitors, Norfolk State University.
71	Board of Visitors, Old Dominion University.
72	Board of Visitors, Radford University.
73	Board of Visitors, University of Virginia.
74	Board of Visitors, Virginia Commonwealth University.
75	Board of Visitors, Virginia Military Institute.
76	Board of Visitors, Virginia Polytechnic Institute and State University.
77	Board of Visitors, Virginia State University.
78	Governing Board, Virginia College Building Authority.
79	Governing Board, Virginia Public School Authority.
80	Library Board, The Library of Virginia.
81	Motor Vehicle Dealer Board.
82	State Board for Community Colleges, Virginia Community College System.
83	Commissions
84	Alexandria Historical Restoration and Preservation Commission.
85	Charitable Gaming Commission
86	Chesapeake Bay Bridge and Tunnel Commission.
87	Hampton Roads Sanitation District Commission.
88	Councils
89	<i>Cave Advisory Council</i>
90	Districts
91	Chesapeake Bay Bridge and Tunnel District.
92	Hampton Roads Sanitation District.
93	Educational Institutions
94	Christopher Newport University.
95	College of William and Mary in Virginia.
96	Frontier Culture Museum of Virginia.
97	George Mason University.
98	James Madison University.
99	Jamestown-Yorktown Foundation.
100	Longwood College.
101	Mary Washington College.
102	Miller School of Albemarle.
103	Norfolk State University.
104	Old Dominion University.
105	Radford University.
106	The Science Museum of Virginia.
107	University of Virginia.
108	Virginia Commonwealth University.
109	Virginia Community College System.
110	Virginia Military Institute.
111	Virginia Museum of Fine Arts.
112	Virginia Polytechnic Institute and State University.
113	The Library of Virginia.
114	Virginia State University.
115	Foundations
116	Chippokes Plantation Farm Foundation.
117	Rural Virginia Development Foundation.
118	Virginia Conservation and Recreation Foundation.
119	Virginia Historic Preservation Foundation.
120	Virginia Outdoor Foundation.
121	Museum

122 Virginia Museum of Natural History.
 123 Plantation
 124 Gunston Hall Plantation.
 125 System
 126 Virginia Retirement System.
 127 § 2.1-1.6. State boards.
 128 A. There shall be, in addition to such others as may be established by law, the following permanent
 129 collegial bodies affiliated with a state agency within the executive branch:
 130 Accountancy, Board for
 131 Aging, Advisory Board on the
 132 Agriculture and Consumer Services, Board of
 133 Air Pollution, State Advisory Board on
 134 Alcoholic Beverage Control Board, Virginia
 135 Apple Board, Virginia State
 136 Appomattox State Scenic River Advisory Board
 137 Aquaculture Advisory Board
 138 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
 139 Art and Architectural Review Board
 140 Athletic Board, Virginia
 141 Auctioneers Board
 142 Audiology and Speech-Language Pathology, Board of
 143 Aviation Board, Virginia
 144 Barbers, Board for
 145 Branch Pilots, Board for
 146 Bright Flue-Cured Tobacco Board, Virginia
 147 Building Code Technical Review Board, State
 148 Catocin Creek State Scenic River Advisory Board
 149 Cattle Industry Board, Virginia
 150 ~~Cave Board~~
 151 Certified Seed Board, State
 152 Chesapeake Bay Local Assistance Board
 153 Chickahominy State Scenic River Advisory Board
 154 Child Abuse and Neglect, Advisory Board on
 155 Chippokes Plantation Farm Foundation, Board of Trustees
 156 Clinch Scenic River Advisory Board
 157 Coal Mining Examiners, Board of
 158 Coal Research and Development Advisory Board, Virginia
 159 Coal Surface Mining Reclamation Fund Advisory Board
 160 Coastal Land Management Advisory Council, Virginia
 161 Conservation and Development of Public Beaches, Board on
 162 Conservation and Recreation, Board of
 163 Contractors, Board for
 164 Corn Board, Virginia
 165 Correctional Education, Board of
 166 Corrections, State Board of
 167 Cosmetology, Board for
 168 Criminal Justice Services Board
 169 Dark-Fired Tobacco Board, Virginia
 170 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
 171 Dentistry, Board of
 172 Education, State Board of
 173 Egg Board, Virginia
 174 Emergency Medical Services Advisory Board
 175 Employment Agency Advisory Board
 176 Farmers Market Board, Virginia
 177 Film Office Advisory Board
 178 Fire Services Board, Virginia
 179 Forensic Science Advisory Board
 180 Forestry, Board of
 181 Funeral Directors and Embalmers, Board of
 182 Game and Inland Fisheries, Board of

183	Geology, Board for
184	Goose Creek Scenic River Advisory Board
185	Health Planning Board, Virginia
186	Health Professions, Board of
187	Health, State Board of
188	Hearing Aid Specialists, Board for
189	Hemophilia Advisory Board
190	Historic Resources, Board of
191	Housing and Community Development, Board of
192	Industrial Development Services Advisory Board
193	Insurance Advisory Board, State
194	Irish Potato Board, Virginia
195	Laboratory Services Advisory Board
196	Litter Control and Recycling Fund Advisory Board
197	Marine Products Board, Virginia
198	Medical Advisory Board, Department of Motor Vehicles
199	Medical Board of the Virginia Retirement System
200	Medicare and Medicaid, Advisory Board on
201	Medicine, Board of
202	Mental Health, Mental Retardation and Substance Abuse Services Board, State
203	Migrant and Seasonal Farmworkers Board
204	Military Affairs, Board of
205	Mineral Mining Examiners, Board of
206	Minority Business Enterprise, Interdepartmental Board of the Department of
207	Networking Users Advisory Board, State
208	Nottoway State Scenic River Advisory Board
209	Nursing, Board of
210	Nursing Home Administrators, Board of
211	Occupational Therapy, Advisory Board on
212	Oil and Gas Conservation Board, Virginia
213	Opticians, Board for
214	Optometry, Board of
215	Peanut Board, Virginia
216	Personnel Advisory Board
217	Pesticide Control Board
218	Pharmacy, Board of
219	Physical Therapy to the Board of Medicine, Advisory Board on
220	Plant Pollination Advisory Board
221	Polygraph Examiners Advisory Board
222	Pork Industry Board, Virginia
223	Poultry Products Board, Virginia
224	Private College Advisory Board
225	Private Security Services Advisory Board
226	Professional and Occupational Regulation, Board for
227	Professional Counselors, Board of
228	Professional Soil Scientists, Board for
229	Psychiatric Advisory Board
230	Psychology, Board of
231	Public Buildings Board, Virginia
232	Public Telecommunications Board, Virginia
233	Radiation Advisory Board
234	Real Estate Appraiser Board
235	Real Estate Board
236	Reciprocity Board, Department of Motor Vehicles
237	Recreational Fishing Advisory Board, Virginia
238	Recreation Specialists, Board of
239	Reforestation Board
240	Rehabilitation Providers, Advisory Board on
241	Rehabilitative Services, Board of
242	Respiratory Therapy, Advisory Board on
243	Retirement System Review Board
244	Rockfish State Scenic River Advisory Board

- 245 Safety and Health Codes Board
- 246 Seed Potato Board
- 247 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 248 Shenandoah State Scenic River Advisory Board
- 249 Small Business Advisory Board
- 250 Small Business Environmental Compliance Advisory Board
- 251 Small Grains Board, Virginia
- 252 Social Services, Board of
- 253 Social Work, Board of
- 254 Soil and Water Conservation Board, Virginia
- 255 Soybean Board, Virginia
- 256 State Air Pollution Control Board
- 257 Substance Abuse Certification Board
- 258 Surface Mining Review, Board of
- 259 Sweet Potato Board, Virginia
- 260 T & M Vehicle Dealers' Advisory Board
- 261 Teacher Education and Licensure, Advisory Board on
- 262 Tourism and Travel Services Advisory Board
- 263 Transportation Board, Commonwealth
- 264 Transportation Safety, Board of
- 265 Treasury Board, The, Department of the Treasury
- 266 Veterans' Affairs, Board on
- 267 Veterinary Medicine, Board of
- 268 Virginia Board for Asbestos Licensing
- 269 Virginia Coal Mine Safety Board
- 270 Virginia Correctional Enterprises Advisory Board
- 271 Virginia Employment Commission, State Advisory Board for the
- 272 Virginia Higher Education Tuition Trust Fund, Board of the
- 273 Virginia Horse Industry Board
- 274 Virginia Manufactured Housing Board
- 275 Virginia Retirement System, Board of Trustees
- 276 Virginia Sheep Industry Board
- 277 Virginia Veterans Cemetery Board
- 278 Virginia Waste Management Board
- 279 Visually Handicapped, Virginia Board for the
- 280 Voluntary Formulary Board, Virginia
- 281 War Memorial Foundation, Virginia, Board of Trustees
- 282 Waste Management Facility Operators, Board for
- 283 Water Resources Research Center Statewide Advisory Board, Virginia
- 284 Waterworks and Wastewater Works Operators, Board for
- 285 Well Review Board, Virginia
- 286 Youth and Family Services, State Board of.
- 287 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 288 referred to as boards:
- 289 Compensation Board
- 290 State Board of Elections
- 291 State Water Control Board
- 292 Virginia Parole Board
- 293 Virginia Veterans Care Center Board of Trustees.
- 294 § 3.1-1021. Definitions.
- 295 As used in this chapter:
- 296 "Board" means the Board of Agriculture and Consumer Services.
- 297 "Candidate species" means those species formally recommended by the Director of the Department of
- 298 ~~Conservation and Recreation~~ *Game and Inland Fisheries* or other reliable data sources in writing to and
- 299 accepted by the Commissioner for presentation to the Board of Agriculture and Consumer Services for
- 300 listing under the Virginia Endangered Plant and Insect Species Act.
- 301 "Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services
- 302 or his designee.
- 303 "Department" means the Department of Agriculture and Consumer Services.
- 304 "Endangered species" means any species or variety of plant life or insect life determined by the
- 305 Board to be in danger of extinction throughout all or a significant part of its range other than a species

306 determined by the Commissioner not to be in the best interest of the welfare of man.

307 "Insect" or "insect life" means any species of the class Insecta.

308 "Person" means an individual, corporation, partnership, trust, association, or any other private entity,
309 or any officer, agent, department, or instrumentality of the federal government, of any state or political
310 subdivision thereof, or of any foreign government.

311 "Plant" or "plant life" means any member of the plant kingdom, including spores, leaves, stems,
312 branches, flowers, seeds, roots, and other parts or products thereof.

313 "Proposed species" means any candidate species authorized by the Board for consideration for listing
314 as endangered or threatened under the Endangered Plant and Insect Species Act.

315 "Species" includes any species or variety of plant life or insects.

316 "Take" means, in reference to plants and insects, to collect, pick, cut, or dig up for the purpose of
317 resale.

318 "Threatened species" means any species determined by the Board to be likely to become an
319 endangered species within the foreseeable future throughout all or a significant portion of its native
320 range.

321 § 3.1-1025. Powers and duties of Board; listing of rare species; further powers of Commissioner.

322 A. The Board may prescribe and adopt regulations including, but not limited to, the listing of
323 endangered or threatened species, their taking, quotas, seasons, buying, selling, possessing, monitoring of
324 movement, investigating, protecting, or any other need in furtherance of the purposes of this chapter.

325 B. The Commissioner may permit the taking of a threatened species when the Board has determined
326 that its abundance in the Commonwealth justifies a controlled harvest which is not in violation of
327 federal laws or regulations. The Commissioner shall take the necessary action to conserve, protect,
328 restore, or propagate endangered and threatened species.

329 C. The Board may adopt regulations to permit and control the commercial harvest of certain
330 threatened species that would prevent that species from becoming endangered or extinct.

331 D. The Commissioner may conduct investigations of species of plants and insects, in order to
332 develop information relating to the population, distribution, habitat needs, limiting factors, and other
333 biological and ecological data in order to determine management measures necessary to assure their
334 continued ability to sustain themselves successfully. As a result of this investigation and
335 recommendations received regarding candidate species from the Director of the Department of
336 ~~Conservation and Recreation~~ *Game and Inland Fisheries* and from other reliable data, the Board shall
337 approve proposed species to be added to or deleted from the list of endangered species or the list of
338 threatened species, or to be transferred from one list to the other.

339 § 9-6.25:1. Advisory boards, commissions and councils.

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

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

343 Advisory Board for the Department for the Aging

344 Advisory Board on Child Abuse and Neglect

345 Advisory Board on Medicare and Medicaid

346 Advisory Board on Occupational Therapy

347 Advisory Board on Physical Therapy to the Board of Medicine

348 Advisory Board on Rehabilitation Providers

349 Advisory Board on Respiratory Therapy to the Board of Medicine

350 Advisory Board on Teacher Education and Licensure

351 Advisory Council on Revenue Estimates

352 Advisory Council on the Virginia Business-Education Partnership Program

353 Appomattox State Scenic River Advisory Board

354 Aquaculture Advisory Board

355 Art and Architectural Review Board

356 Board for the Visually Handicapped

357 Board of Directors, Virginia Truck and Ornamentals Research Station

358 Board of Forestry

359 Board of Military Affairs

360 Board of Rehabilitative Services

361 Board of Transportation Safety

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

363 Board of Visitors, Gunston Hall Plantation

364 Board on Veterans' Affairs

365 Catoctin Creek State Scenic River Advisory Board

366 Cave Board ~~Advisory Council~~

367 Chickahominy State Scenic River Advisory Board

368	Clinch Scenic River Advisory Board
369	Coal Surface Mining Reclamation Fund Advisory Board
370	Coastal Land Management Advisory Council, Virginia
371	Commonwealth Competition Council
372	Council on Indians
373	Council on the Status of Women
374	Debt Capacity Advisory Committee
375	Emergency Medical Services Advisory Board
376	Falls of the James Committee
377	Film Office Advisory Board
378	Forensic Science Advisory Board
379	Goose Creek Scenic River Advisory Board
380	Governor's Council on Alcohol and Drug Abuse Problems
381	Governor's Mined Land Reclamation Advisory Committee
382	Hemophilia Advisory Board
383	Human Services Information and Referral Advisory Council
384	Industrial Development Services Advisory Board
385	Interagency Coordinating Council on Housing for the Disabled
386	Interdepartmental Board of the State Department of Minority Business Enterprise
387	Laboratory Services Advisory Board
388	Litter Control and Recycling Fund Advisory Board
389	Local Advisory Board to the Blue Ridge Community College
390	Local Advisory Board to the Central Virginia Community College
391	Local Advisory Board to the Dabney S. Lancaster Community College
392	Local Advisory Board to the Danville Community College
393	Local Advisory Board to the Eastern Shore Community College
394	Local Advisory Board to the Germanna Community College
395	Local Advisory Board to the J. Sargeant Reynolds Community College
396	Local Advisory Board to the John Tyler Community College
397	Local Advisory Board to the Lord Fairfax Community College
398	Local Advisory Board to the Mountain Empire Community College
399	Local Advisory Board to the New River Community College
400	Local Advisory Board to the Northern Virginia Community College
401	Local Advisory Board to the Patrick Henry Community College
402	Local Advisory Board to the Paul D. Camp Community College
403	Local Advisory Board to the Piedmont Virginia Community College
404	Local Advisory Board to the Rappahannock Community College
405	Local Advisory Board to the Southwest Virginia Community College
406	Local Advisory Board to the Thomas Nelson Community College
407	Local Advisory Board to the Tidewater Community College
408	Local Advisory Board to the Virginia Highlands Community College
409	Local Advisory Board to the Virginia Western Community College
410	Local Advisory Board to the Wytheville Community College
411	Maternal and Child Health Council
412	Medical Advisory Board, Department of Motor Vehicles
413	Medical Board of the Virginia Retirement System
414	Migrant and Seasonal Farmworkers Board
415	Motor Vehicle Dealer's Advisory Board
416	Nottoway State Scenic River Advisory Board
417	Personnel Advisory Board
418	Plant Pollination Advisory Board
419	Private College Advisory Board
420	Private Enterprise Commission
421	Private Security Services Advisory Board
422	Psychiatric Advisory Board
423	Radiation Advisory Board
424	Rappahannock Scenic River Advisory Board
425	Recreational Fishing Advisory Board, Virginia
426	Reforestation Board
427	Retirement System Review Board
428	Rockfish State Scenic River Advisory Board

429 Shenandoah State Scenic River Advisory Board
430 Small Business Advisory Board
431 Small Business Environmental Compliance Advisory Board
432 St. Mary's Scenic River Advisory Committee
433 State Advisory Board on Air Pollution
434 State Advisory Board for the Virginia Employment Commission
435 State Building Code Technical Review Board
436 State Council on Local Debt
437 State Health Benefits Advisory Council
438 State Insurance Advisory Board
439 State Land Evaluation Advisory Council
440 State Networking Users Advisory Board
441 State Public Records Advisory Council
442 Statewide Independent Living Council
443 Statewide Rehabilitation Advisory Council
444 Statewide Rehabilitation Advisory Council for the Blind
445 Staunton Scenic River Advisory Committee
446 Telecommunications Relay Service Advisory Board
447 Tourism and Travel Services Advisory Board
448 Virginia Advisory Commission on Intergovernmental Relations
449 Virginia Advisory Council for Adult Education and Literacy
450 Virginia Coal Mine Safety Board
451 Virginia Coal Research and Development Advisory Board
452 Virginia Commission for the Arts
453 Virginia Commission on the Bicentennial of the United States Constitution
454 Virginia Correctional Enterprises Advisory Board
455 Virginia Council on Coordinating Prevention
456 Virginia Equal Employment Opportunity Council
457 Virginia Interagency Coordinating Council
458 Virginia Military Advisory Council
459 Virginia Public Buildings Board
460 Virginia Recycling Markets Development Council
461 Virginia Technology Council
462 Virginia Transplant Council
463 Virginia Veterans Cemetery Board
464 Virginia Water Resources Research Center, Statewide Advisory Board
465 Virginia Winegrowers Advisory Board.
466 § 29.1-103. Powers and duties of the Board.
467 The Board is responsible for carrying out the purposes and provisions of this title and is authorized
468 to:
469 1. Appoint the Director of the Department.
470 2. Acquire by purchase, lease, exchange, gift or otherwise, lands and waters in the Commonwealth
471 and to establish buildings, structures, dams, lakes and ponds on such lands and waters.
472 3. Conduct operations for the preservation and propagation of game birds, game animals, fish and
473 other wildlife in order to increase, replenish and restock the lands and inland waters of the
474 Commonwealth.
475 4. Purchase, lease, or otherwise acquire lands and waters for game and fish refuges, preserves,
476 *natural areas and natural area preserves* or public shooting and fishing, and establish such lands and
477 waters under appropriate regulations.
478 5. Acquire by purchase, lease, or otherwise, lands and structures for use as public landings, wharves,
479 or docks; to improve such lands and structures; and to control the use of all such public landings,
480 wharves, or docks by regulation.
481 6. Acquire and introduce any new species of game birds, game animals or fish on the lands and
482 within the waters of the Commonwealth.
483 7. Restock, replenish and increase any depleted native species of game birds, game animals, or fish.
484 8. Have educational matter pertaining to wildlife published and distributed.
485 9. Hold exhibits throughout the Commonwealth for the purpose of educating school children,
486 agriculturists and other persons in the preservation and propagation of wildlife in the Commonwealth.
487 10. Control land owned by and under control of the Commonwealth in Back Bay, its tributaries and
488 the North Landing River from the North Carolina line to North Landing Bridge. The Board shall
489 regulate or prohibit by regulation any drilling, dredging or other operation designed to recover or obtain
490 shells, minerals, or other substances in order to prevent practices and operations which would harm the

area for fish and wildlife.

11. Exercise powers it may deem advisable for conserving, protecting, replenishing, propagating and increasing the supply of game birds, game animals, fish and other wildlife of the Commonwealth.

12. Adopt resolutions or regulations conferring upon the Director all such powers, authorities and duties as the Board possesses and deems necessary or proper to carry out the purposes of this title.

13. Administer and manage the Virginia Fish Passage Grant and Revolving Loan Fund pursuant to Article 1.1 (§ 29.1-101.2 et seq.) of Chapter 1 of this title.

14. Administer the Virginia Natural Area Preserves Act (§ 29.1-900 et seq.) and the Cave Protection Act (§ 29.1-1000 et seq.).

§ 29.1-566. Regulations.

The Board is authorized to adopt the federal list, as well as modifications and amendments thereto by regulations; to declare by regulation, after consideration of recommendations from the Director of the Department of Conservation and Recreation and from other reliable data sources, that species not appearing on the federal lists are endangered or threatened species in Virginia; and to prohibit by regulation the taking, transportation, processing, sale, or offer for sale within the Commonwealth of any threatened or endangered species of fish or wildlife.

CHAPTER 9.

VIRGINIA NATURAL AREA PRESERVES ACT.

§ 29.1-900. Definitions.

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the text:

"Fund" means the Natural Area Preservation Fund.

"Dedication" means the transfer to the Commonwealth of an estate, interest, or right in a natural area by any manner authorized in § 29.1-904.

"Instrument of dedication" means any written document by which an estate, interest, or right in a natural area conveys formal dedication as a natural area preserve pursuant to the provisions of § 29.1-904.

"Natural area" means any area of land, water, or both land and water, whether publicly or privately owned, that retains or has reestablished its natural character, though it need not be completely natural and undisturbed; or which is important in preserving rare or vanishing flora, fauna, native ecological systems, geological, natural historical, scenic or similar features of scientific or educational value benefiting the citizens of the Commonwealth.

"Natural area preserve" means a natural area that has been dedicated pursuant to § 29.1-904.

"Natural heritage resources" means the habitat of rare, threatened, or endangered plant and animal species, rare or state significant natural communities or geologic sites, and similar features of scientific interest benefiting the welfare of the citizens of the Commonwealth.

"Program" means the Virginia Natural Heritage Program.

"Owner" means any individual, corporation, partnership, trust or association, and all governmental units except the state, its departments, agencies or institutions.

"Registry" means an agreement between the Director and the owner of a natural area to protect and manage the natural area for its specified natural heritage resource values.

"System" means the state system of natural area preserves established under § 29.1-905.

§ 29.1-901. Additional powers of the Board.

In addition to other powers conferred by law and subject to the provisions of this chapter, the Board shall have the power, which may be delegated to the Director:

1. To establish criteria for the selection, registration and dedication of natural areas and natural area preserves.

2. To purchase, lease or otherwise acquire in the name of the Commonwealth, using moneys from the Natural Area Preservation Fund, lands suitable for natural area preserves.

3. To acquire by gift, devise, purchase, or otherwise, absolutely or in trust, and to hold and, unless otherwise restricted by the terms of a gift or devise, to encumber, convey or otherwise dispose of, any real property, any estate or interests therein, or products on or derived from such real property, as may be necessary and proper in carrying into effect the provisions of this chapter.

4. To accept, hold and administer gifts and bequests of money, securities, or other property, absolutely or in trust, made for purposes of this article. Unless otherwise restricted by the terms of the gift or bequest, the Board may sell, exchange or otherwise dispose of such money, securities or other property given or bequeathed to the Board. The principal of such funds, together with the income and all revenues derived therefrom, shall be placed in the Natural Area Preservation Fund.

§ 29.1-902. Additional duties of the Board.

In addition to other duties conferred by law, the Board or the Director, if delegated by Board, shall:

1. Preserve the natural diversity of biological resources of the Commonwealth.

552 2. Maintain a Natural Heritage Program to select and nominate areas containing natural heritage
553 resources for registration, acquisition, and dedication of natural areas and natural area preserves.
554 3. Develop and implement a Natural Heritage Plan that shall govern the Natural Heritage Program
555 in the creation of a system of registered and dedicated natural area preserves.
556 4. Publish and disseminate information pertaining to natural areas and natural area preserves.
557 5. Grant permits to qualified persons for the conduct of scientific research and investigations within
558 natural area preserves.
559 6. Provide recommendations to the Commissioner of the Department of Agriculture and Consumer
560 Services and to the Board of Agriculture and Consumer Services on species for listing under the
561 Virginia Endangered Plant and Insect Species Act (§ 3.1-1020 et seq.), prior to the adoption of
562 regulations therefor.
563 7. Cooperate with local, state and federal agencies in developing management plans for real
564 property under their stewardship that will identify, maintain and preserve the natural diversity of
565 biological resources of the Commonwealth.
566 8. Provide for management, development and utilization of any lands purchased, leased or otherwise
567 acquired and enforce the provisions of this chapter governing natural area preserves, the stewardship
568 thereof, the prevention of trespassing thereon, or other actions deemed necessary to carry out the
569 provisions of this chapter.
570 § 29.1-903. Virginia Natural Heritage Program.
571 A. The Virginia Natural Heritage Program is hereby continued and shall be administered by the
572 Board.
573 B. The Board shall:
574 1. Produce an inventory of the Commonwealth's natural heritage resources, including their location
575 and ecological status.
576 2. Maintain a natural heritage data bank of inventory data and other relevant information for
577 ecologically significant sites supporting natural heritage resources. Information from this data bank will
578 be made available to public agencies and may be made available to private institutions or individuals
579 for environmental assessment and land management purposes.
580 3. Develop a Natural Heritage Plan which establishes priorities for the protection, acquisition and
581 management of registered and dedicated natural areas and natural area preserves.
582 C. The Program shall include other functions as may be assigned by the Department for the
583 registration, dedication, protection and stewardship of natural areas and natural area preserves.
584 § 29.1-904. Dedication of natural area preserves.
585 A. The Board may, in the name of the Department, accept the dedication of natural areas on lands
586 deemed by the Board to qualify as natural area preserves under the provisions of this chapter. Natural
587 area preserves may be dedicated by voluntary act of the owner. The owner of a qualified natural area
588 may transfer fee simple title or other interest in land to the Commonwealth. Natural area preserves may
589 be acquired by gift, grant, or purchase.
590 B. Dedication of a natural preserve shall become effective only upon acceptance of the instrument of
591 dedication by the Board.
592 C. The instrument of dedication may:
593 1. Contain restrictions and other provisions relating to management, use, development, transfer, and
594 public access, and may contain any other restrictions and provisions as may be necessary or advisable
595 to further the purposes of this chapter;
596 2. Define, consistently with the purposes of this chapter, the respective rights and duties of the owner
597 and of the Commonwealth and provide procedures to be followed in case of violations of the
598 restrictions;
599 3. Recognize and create reversionary rights, transfers upon conditions or with limitations, and gifts
600 over; and
601 4. Vary in provisions from one natural area preserve to another in accordance with differences in
602 the characteristics and conditions of the several areas.
603 D. Public departments, commissions, boards, counties, municipalities, corporations, colleges,
604 universities and all other agencies and instrumentalities of the Commonwealth and its political
605 subdivisions are empowered to dedicate suitable areas within their jurisdiction as natural area
606 preserves.
607 E. Subject to the approval of the Governor, the Commonwealth may enter into amendments to the
608 instrument of dedication upon finding that the amendment will not permit an impairment, disturbance,
609 use, or development of the area inconsistent with the provisions of this chapter. If the fee simple estate
610 in the natural area preserve is not held by the Board under this chapter, no amendment may be made
611 without the written consent of the owner of the other interests therein.
612 § 29.1-905. Virginia Natural Area Preserves System continued.
613 A state system of natural area preserves is hereby continued and shall be called the Virginia Natural

Area Preserves System. The system shall consist of natural area preserves dedicated as provided in § 29.1-904. Once dedicated, a natural area preserve shall be managed in a manner consistent with continued preservation of the natural heritage resources it supports.

§ 29.1-906. Fund continued.

A. A fund consisting of general fund appropriations, gifts, bequests and devises known as the Natural Area Preservation Fund is hereby continued.

B. Any funds remaining in such fund at the end of the biennium, including all appropriations, gifts, bequests and devises, and interest accruing thereon, shall not revert to the general fund but shall remain in the Natural Area Preservation Fund.

§ 29.1-907. Natural area registry.

A. The Department shall maintain a state registry of voluntarily protected natural areas to be called the Virginia Registry of Natural Areas. Registration of natural areas shall be accomplished through voluntary agreement between the owner of the natural area and the Director. State-owned lands may be registered by agreement with the agency to which the land is allocated. Registry agreements may be terminated by either party at any time, and upon such termination the area shall be removed from the registry.

B. A natural area shall be registered when an agreement to protect and manage the natural area for its specified natural heritage resource has been signed by the owner and the Director. The owner of a registered natural area shall be given a certificate signifying the inclusion of the area in the registry.

§ 29.1-908. Gifts, devises and bequests.

Gifts, devises or bequests, whether personal or real property, and the income derived therefrom, accepted by the Board, shall be deemed as gifts to the Commonwealth, which shall be exempt from all state and local taxes, and shall be regarded as the property of the Commonwealth for the purposes of all tax laws.

29.1-909. Cooperation of state agencies.

All departments, commissions, boards, authorities, agencies, offices and institutions within any branch of state government shall cooperate with the Board in carrying out the purposes of this chapter.

CHAPTER 10.

CAVE ADVISORY COUNCIL.

§ 29.1-1000. Definitions.

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

"Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge including natural subsurface water and drainage systems, but not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter. The word "cave" includes, or is synonymous with, cavern, sinkhole, natural pit, grotto, and rock shelter.

"Cave life" means any rare or endangered animal or other life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system.

"Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

"Council" means the Cave Advisory Council.

"Gate" means any structure or device located to limit or prohibit access or entry to any cave.

"Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

"Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities, as well as counties, municipalities, and other political subdivisions of the Commonwealth.

"Person" means any individual, partnership, firm, association, trust, or corporation or other legal entity.

"Sinkhole" means a closed topographic depression or basin, generally draining underground including, but not restricted to, a doline, uvala, blind valley, or sink.

"Speleogen" means an erosional feature of the cave boundary and includes, or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.

"Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes without limitation stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals.

§ 29.1-1001. Cave Advisory Council; qualifications; officers.

675 A. The Cave Advisory Council is established within the Department of Game and Inland Fisheries
676 and shall consist of the Director of the Department of Historic Resources, or his designee, serving in an
677 ex officio capacity and eleven citizens of Virginia appointed by the Governor for four-year terms.
678 Appointments shall be made on the basis of activity and knowledge in the conservation, exploration,
679 study and management of caves.

680 B. The Cave Advisory Council shall meet at least three times a year. Six members shall constitute a
681 quorum for the transaction of business. The Council shall annually elect a chairman, vice-chairman and
682 recording secretary and such other officers as the Council deems necessary.

683 § 29.1-1002. Powers and duties of Cave Advisory Council.

684 A. The Advisory Council may perform the following:

685 1.. Serve as an advisory council to any requesting state agency on matters relating to caves and
686 karst.

687 2. Conduct and maintain an inventory of publicly owned caves in Virginia.

688 3. Provide cave management expertise and service to requesting public agencies and cave owners.

689 4. Maintain a current list of all significant caves in Virginia and report any real and present danger
690 to such caves.

691 5. Provide cave data for use by state and other governmental agencies.

692 6. Publish or assist in publishing articles, pamphlets, brochures or books on caves and cave-related
693 concerns.

694 7. Facilitate data gathering and research efforts on caves.

695 8. Advise civil defense authorities on the present and future use of Virginia caves in civil defense.

696 9. Advise on the need for and desirability of a state cave recreation plan.

697 10. Inform the public about the value of cave resources and the importance of preserving them for
698 the citizens of the Commonwealth.

699 B. The Cave Advisory Council shall make recommendations to:

700 1. Protect the rare, unique and irreplaceable minerals and archaeological resources found in caves.

701 2. Protect and maintain cave life.

702 3. Protect the ground water flow which naturally occurs in caves from water pollution.

703 4. Protect the integrity of caves that have unique characteristics or are exemplary natural community
704 types.

705 5. Inform Interested state agencies concerning any proposed rule, regulation or administrative policy
706 which directly affects the use and conservation of caves in this Commonwealth.

707 6. Study any matters of special concern relating to caves and karst.

708 § 29.1-1003. Permits for excavation and scientific investigation; how obtained; penalties.

709 A. In addition to the written permission of the owner required by § 29.1-1004, a permit shall be
710 obtained from the Department, prior to excavating or removing any archaeological, paleontological,
711 prehistoric, or historic feature of any cave. The Department shall issue a permit to excavate or remove
712 such a feature if it finds with the concurrence of the Director of the Department of Historic Resources
713 that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this
714 section. The permit shall be issued for a period of two years and may be renewed upon expiration. Such
715 permit shall not be transferable; however, the provisions of this section shall not preclude any person
716 from working under the direct supervision of the permittee.

717 B. All field investigations, explorations, or recovery operations undertaken under this section shall be
718 carried out under the general supervision of the Department and in a manner to ensure that the
719 maximum amount of historic, scientific, archaeologic, and educational information may be recovered
720 and preserved in addition to the physical recovery of objects.

721 C. A person applying for a permit pursuant to this section shall:

722 1. Be a historic, scientific, or educational institution, or a professional or amateur historian,
723 biologist, archaeologist or paleontologist, who is qualified and recognized in these areas of field
724 investigations.

725 2. Provide a detailed statement to the Department giving the reasons and objectives for excavation
726 or removal and the benefits expected to be obtained from the contemplated work.

727 3. Provide data and results of any completed excavation, study, or collection at the first of each
728 calendar year.

729 4. Obtain the prior written permission of the owner if the site of the proposed excavation is on
730 privately owned land.

731 5. Carry the permit while exercising the privileges granted.

732 D. Any person who fails to obtain a permit required by subsection A hereof shall be guilty of a
733 Class 1 misdemeanor. Any violation of subsection C hereof shall be punished as a Class 3
734 misdemeanor, and the permit shall be revoked.

735 E. The provisions of this section shall not apply to any person in any cave located on his own
736 property.

§ 29.1-1004. *Permission of owner; vandalism; penalties.*

A. *It shall be unlawful for any person, without express, prior, written permission of the owner, to:*

1. *Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.*

2. *Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.*

3. *Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this chapter.*

4. *Excavate, remove, destroy, injure, deface, or in any manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including relics, inscriptions, saltpeter workings, fossils, bones, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of the Virginia Antiquities Act (§ 10.1-2300 et seq.).*

B. *Entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.*

C. *Any violation of this section shall be punished as a Class 1 misdemeanor.*

D. *The provisions of this section shall not apply to an owner of a cave on his own property.*

§ 29.1-1005. *Pollution; penalties.*

A. *It shall be unlawful for any person, without express, prior, written permission of the owner, to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans, in any cave or sinkhole. It shall also be unlawful to burn within a cave or sinkhole any material which produces any smoke or gas which is harmful to any naturally occurring organism in any cave.*

B. *Any violation of this section shall be punished as a Class 1 misdemeanor.*

§ 29.1-1006. *Disturbance of naturally occurring organisms; scientific collecting permits; penalties.*

A. *It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organisms within any cave, except for safety or health reasons; however, scientific collecting permits may be obtained from the Department.*

B. *Any violation of this section shall be punished as a Class 3 misdemeanor.*

§ 29.1-1007. *Sale of speleothems; penalties.*

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, or to export them for sale outside the Commonwealth. Any violation of this section shall be punished as a Class 1 misdemeanor.

§ 29.1-1008. *Liability of owners and agents limited; sovereign immunity of Commonwealth not waived.*

Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry as to the experience or expertise of the individual seeking consent may have been made.

Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus, or agencies.

§ 58.1-345. *Nongame wildlife and natural areas voluntary contribution.*

A. *Any individual eligible to receive a tax refund pursuant to § 58.1-309 may designate at the time of filing his return a specified dollar amount of such refund, such amount to be not less than one dollar, to be used for the conservation and management of endangered species and , other nongame wildlife, and natural areas. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other invertebrates under the jurisdiction of the Board of Game and Inland Fisheries.*

B. *All moneys collected pursuant to this section or through voluntary payments by taxpayers designated for nongame wildlife and natural area purposes over refundable amounts shall be deposited into the state treasury.*

C. *The Tax Commissioner shall determine annually the total amount designated on all state income tax returns and shall report the same to the State Treasurer, who shall credit that amount to a special fund known as the game protection fund and which shall be accounted for as a separate part thereof to be designated as the nongame cash fund. All moneys so deposited in the nongame cash fund shall be used by the Commission Department of Game and Inland Fisheries for the purposes set forth herein.*

§ 58.1-345.1. *Open space recreation and conservation voluntary contribution.*

A. *For all taxable years beginning on or after January 1, 1993, but before January 1, 1996, any*

individual eligible to receive a tax refund pursuant to § 58.1-309 may designate at the time of filing his return a specified dollar amount of such refund, no less than one dollar, to be used by the Department of Conservation and Recreation for the following purposes:

1. To acquire land for recreational purposes and preserve natural areas;

2. To develop, maintain and improve state park sites and facilities; and

3. 2. To provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

B. The Tax Commissioner shall determine annually the total amount designated on state income tax returns as voluntary contributions, and shall report such amount to the State Treasurer. All voluntary contributions collected pursuant to subsection A of this section shall be deposited into the state treasury. The State Treasurer shall credit the total amount collected to a special fund entitled the "Open Space Recreation and Conservation Fund." The moneys in the fund shall be allocated according to the following formula and used for the following purposes:

1. One-half of such fund shall be paid to the Department of Conservation and Recreation for the purposes established in subdivisions A 1 and 2 of this section of developing, maintaining, and improving state park and other property sites and facilities owned by the Department of Conservation and Recreation; and

2. One-half of the moneys in such fund shall be paid to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

2. That Article 3 (§§ 10.1-209 through 10.1-217) of Chapter 2 of Title 10.1 and Chapter 10 (§§ 10.1-1000 through 10.1-1008) of Title 10.1 are repealed.

3. That all existing records and equipment purchased between July 1, 1989, and June 30, 1996, with general or special funds allocated for the operation of the Virginia Natural Area Preserves Act and the Cave Protection Act, including the Division of Natural Heritage of the Department of Conservation and Recreation, shall be transferred from the Department of Conservation and Recreation to the Department of Game and Inland Fisheries. Records and equipment transfer shall be based upon an inventory prepared by the Department of Conservation and Recreation identifying specific items and funding source and provided to the Department of Game and Inland Fisheries on or before July 1, 1996.

4. That all cave protection permits issued by the Director of the Department of Conservation and Recreation under § 10.1-1003 shall remain in full force and effect until the normally scheduled expiration date. All cave protection permits shall be transferred to the administration of the Board and Department of Game and Inland Fisheries.

5. That the General Assembly hereby specifically, and in accordance with § 10.1-109, approves the transfer of those real properties owned in fee simple and dedicated as Natural Area Preserves which are currently held and managed by the Department of Conservation and Recreation for the Commonwealth of Virginia. The properties are to be transferred in accordance with § 2.1-504.3 from the Department of Conservation and Recreation to the Board of Game and Inland Fisheries, subject to the approval of the Governor. The Natural Area Preserve properties to be transferred are: The Pinnacle in Russell County, Big Spring Bog in Grayson County, Poor Mountain in Roanoke County, Johnson Creek in Alleghany County, Bushmill Stream in Northumberland County, Bethel Beach in Mathews County, North Landing River in the Cities of Chesapeake and Virginia Beach, Wreck and Bone Island in Northampton County, Hughlett Point in Lancaster County, William B. Trower Bayshore in Northampton County, and Northwest River in the City of Chesapeake, and other natural area preserves purchased by the Department of Conservation and Recreation prior to July 1, 1996.

6. That the General Assembly in accordance with § 10.1-109, approves the transfer of certain real properties owned in fee simple and designated as Natural Areas which are currently held and managed by the Department of Conservation and Recreation for the Commonwealth of Virginia. The properties to be transferred in accordance with § 2.1-504.3 from the Department of Conservation and Recreation to the Board of Game and Inland Fisheries, subject to the approval of the documents as to form and content by the Attorney General and the approval of the Governor. The Natural Areas to be transferred are: Goshen Pass in Rockbridge County, Lick Creek in Bland and Smyth Counties, Parker's Marsh in Accomack County, and the Charles C. Steirley Heron Rookery in Sussex County.

7. That the General Assembly in accordance with § 10.1-109, approves the transfer of certain interests in real properties represented by the Deed of Dedication taken in accordance with the Virginia Natural Area Preserves Act under § 10.1-213 and the Virginia Open-Space Land Act (§ 10.1-1700 et seq.) now held by the Department of Conservation and Recreation for the Commonwealth and designated as Natural Area Preserves. The Deeds of Dedication are to be transferred in accordance with § 2.1-504.3 from the Department of Conservation and Recreation to the Board of Game and Inland Fisheries, subject to the approval of the Governor. The less than fee simple dedicated interest Natural Areas rights to be transferred are: The Blackwater

860 Ecological Preserve in Isle of Wight County, and Grafton Ponds in York County. The Board of
861 Game and Inland Fisheries shall coordinate notification of this change with the landowners holding
862 the underlying fee simple.
863 8. That all existing contracts, grants and other legally binding documents affected by the
864 provisions of this act entered into by the Division of Natural Heritage of the Department of
865 Conservation and Recreation for the Department remain in full force and effect, but
866 administrative responsibility for the Commonwealth of Virginia for such documents is transferred
867 from the Department of Conservation and Recreation to the Board of Game and Inland Fisheries.

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