

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 338

An Act to amend and reenact § 10.1-1704 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 10.1-1801.1 and 10.1-1801.2, relating to the Open-Space Lands Preservation Trust Fund.

[H 2044]

Approved March 13, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1704 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1801.1 and 10.1-1801.2 as follows:

§ 10.1-1704. Diversion of property from open-space land use; conveyance or lease of open-space land.

A. No open-space land, the title to or interest or right in which has been acquired under this chapter and which has been designated as open-space land under the authority of this chapter, shall be converted or diverted from open-space land use unless (i) the conversion or diversion is determined by the public body to be ~~(i)~~ (a) essential to the orderly development and growth of the ~~urban area, locality and~~ ~~(ii)~~ (b) in accordance with the official comprehensive plan for the ~~urban area locality~~ in effect at the time of conversion or diversion and (ii) there is substituted other real property which is (a) of at least equal fair market value, and (b) of greater value as permanent open-space land than the land converted or diverted and (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land ~~shall be substituted within a reasonable period not exceeding one year for any real property converted or diverted from open-space land use, unless the public body determines that such open-space land or its equivalent is no longer needed as is the land converted or diverted.~~ The public body shall assure that the property substituted will be subject to the provisions of this chapter.

B. A public body may convey or lease any real property it has acquired and which has been designated for the purposes of this chapter. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection A of this section.

§ 10.1-1801.1. Open-Space Lands Preservation Trust Fund.

A. The Foundation shall establish, administer, manage, including the creation of reserves, and make expenditures and allocations from a special nonreverting fund in the state treasury to be known as the Open-Space Lands Preservation Trust Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the purpose of providing grants in accordance with this section to persons conveying conservation easements, as defined by § 10.1-1009, on agricultural, forestal, or other open-space land pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.) and, if applicable, the Virginia Conservation Easement Act (§ 10.1-1009 et seq.).

B. The Fund shall consist of general fund moneys, gifts, endowments or grants from the United States government, its agencies and instrumentalities, and funds from any other available sources, public or private.

C. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not revert to the general fund. Interest earned on moneys received by the Fund shall remain in the Fund and be credited to it.

D. The purpose of grants made from the Fund shall be to aid persons conveying conservation easements with the costs associated with such a conveyance, which may include legal costs, appraisal costs or all or part of the value of the easement. To be eligible for a grant award, the conservation easement shall provide that:

1. The easement is perpetual in duration;

2. The easement is conveyed to the Foundation and a local co-holder; and

3. If the local co-holder ceases to exist, the easement shall vest solely in the Foundation. If a local co-holder of an easement for which a grant has been awarded under this section ceases to exist, the Foundation shall within two years convey the interest in the easement that was held by the local co-holder to another qualified local co-holder. If no qualified local co-holder is willing to accept the easement, the Foundation shall diligently continue to seek a qualified local co-holder.

For the purposes of this section, "local co-holder" means the governing body of the locality in which the easement is located; a holder as defined in § 10.1-1009; a public recreational facilities authority; other local entity authorized by statute to hold open-space or preservation easements, or a soil and water conservation district, if authorized to hold an easement under the Open-Space Land Act (§ 10.1-1700 et seq.).

E. In awarding grants from the Fund, the Foundation shall consider the recommendations of the

regional advisory boards established pursuant to § 10.1-1801.2. The Foundation shall establish guidelines for submittal and evaluation of grant applications. In evaluating grant applications, the Foundation may give priority to applications that:

1. Request a grant to pay only legal and appraisal fees for a conservation easement that is being donated by the landowner;
2. Request a grant to pay costs associated with conveying a conservation easement on a family-owned or family-operated farm; or
3. Demonstrate the applicant's financial need for a grant.

F. No open-space land for which a grant has been awarded under this section shall be converted or diverted from open-space land use unless:

1. Such conversion or diversion is in compliance with subsection A of § 10.1-1704; and
2. The easement on the land substituted for land subject to an easement with respect to which a grant has been made under this section meets the eligibility requirements of this section.

§ 10.1-1801.2. Regional open-space preservation advisory boards.

The Foundation shall establish six regional open-space preservation advisory boards to evaluate grant applications and develop recommendations for the distribution of funds to grant applicants. Each board shall have nine members who shall be appointed by the Governor and shall serve without compensation. Each board shall include a local government official, a representative of an organization meeting the definition of "holder" in § 10.1-1009, a representative of a sportsmen's organization, an elected director of a soil and water conservation district, two farmers, and one representative each of the tourism, forestry and real estate industries. Initial appointments shall be made on a staggered basis as follows: three members of each board shall initially be appointed for two years, three members of each board shall be initially appointed for three years, and three members of each board shall be appointed for four-year terms. The Governor shall designate the term to be served by each appointee at the time of appointment. Thereafter, all members shall be appointed for terms of four years each. Vacancies occurring, other than by expiration of a term, shall be filled by the Governor in the same manner as the original appointment for the remainder of the unexpired term. No member shall serve more than two consecutive full terms. The six regions shall be composed as follows:

1. Region 1 shall consist of the area contained within the Headwaters, Mountain Castles, Lord Fairfax, Natural Bridge, Mountain, and Shenandoah Valley Soil and Water Conservation Districts.

2. Region 2 shall consist of the area contained within the Culpeper, Northern Virginia, John Marshall, Prince William, Loudoun and Thomas Jefferson Soil and Water Conservation Districts.

3. Region 3 shall consist of the area contained within the Colonial, James River, Three Rivers, Hanover-Caroline, Monacan, Tidewater, Henricropolis, Northern Neck and Tri-County Soil and Water Conservation Districts.

4. Region 4 shall consist of the area contained within the Big Walker, Evergreen, Natural Tunnel, Tazewell, Clinch Valley, Holston River, New River, Daniel Boone, Lonesome Pine and Skyline Soil and Water Conservation Districts.

5. Region 5 shall consist of the area contained within the Blue Ridge, Peaks of Otter, Pittsylvania, Halifax, Peter Francisco, Robert E. Lee, Patrick, Piedmont, Lake Country Region, and Southside Soil and Water Conservation Districts.

6. Region 6 shall consist of the area contained within the Appomattox River, Peanut, Eastern Shore, Virginia Dare and J.R. Horsely Soil and Water Conservation Districts.

Areas which are not part of any soil and water conservation district shall be part of the region containing districts contiguous to the area. Each board member shall reside in the region for which his board is appointed. Each board shall evaluate grant applications for those applicants who propose to convey easements located within the region. Of the applications each board considers, the board shall identify the applications that will provide the most significant open-space preservation benefits according to guidelines and timetables developed by the Foundation, and forward these recommendations to the Foundation.