

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 906

An Act to amend and reenact §§ 2.1-1.5, 10.1-202, 10.1-1017, 10.1-1018, 10.1-1020, 10.1-1021 and 10.1-2213 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1022.1, relating to the Virginia Land Conservation Foundation.

[H 1747]

Approved March 29, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 10.1-202, 10.1-1017, 10.1-1018, 10.1-1020, 10.1-1021 and 10.1-2213 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1022.1 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.
Medical College of Virginia Hospitals Authority.
Richmond Eye and Ear Hospital Authority.
Small Business Financing Authority.
Virginia Agriculture Development Authority.
Virginia College Building Authority.
Virginia Economic Development Partnership.
Virginia Housing Development Authority.
Virginia Information Providers Network Authority.
Virginia Innovative Technology Authority.
Virginia Port Authority.
Virginia Public Building Authority.
Virginia Public School Authority.
Virginia Resources Authority.

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, Medical College of Virginia Hospitals 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 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.
Board of Trustees, Virginia Outdoor Foundation.
Board of Visitors, Christopher Newport University.
Board of Visitors, George Mason University.
Board of Visitors, Gunston Hall Plantation.
Board of Visitors, James Madison University.
Board of Visitors, Longwood College.
Board of Visitors, Mary Washington College.
Board of Visitors, Norfolk State University.
Board of Visitors, Old Dominion University.
Board of Visitors, Radford University.

Board of Visitors, The College of William and Mary in Virginia.
 Board of Visitors to Mount Vernon.
 Board of Visitors, University of Virginia.
 Board of Visitors, Virginia Commonwealth University.
 Board of Visitors, Virginia Military Institute.
 Board of Visitors, Virginia Polytechnic Institute and State University.
 Board of Visitors, Virginia State University.
 Commonwealth Health Research Board.
 Governing Board, Virginia College Building Authority.
 Governing Board, Virginia Public School Authority.
 Library Board, The Library of Virginia.
 Motor Vehicle Dealer Board.
 State Board for Community Colleges, Virginia Community College System.
 Virginia-Israel Advisory Board.
 (Effective until July 1, 2002) Wireless E-911 Service Board.

Commissions

Advisory Commission on the Virginia Schools for the Deaf and the Blind.
 Alexandria Historical Restoration and Preservation Commission.
 Charitable Gaming Commission.
 Chesapeake Bay Bridge and Tunnel Commission.
 Hampton Roads Sanitation District Commission.

Districts

Chesapeake Bay Bridge and Tunnel District.
 Hampton Roads Sanitation District.

Educational Institutions

Christopher Newport University.
 Frontier Culture Museum of Virginia.
 George Mason University.
 James Madison University.
 Jamestown-Yorktown Foundation.
 Longwood College.
 Mary Washington College.
 Miller School of Albemarle.
 Norfolk State University.
 Old Dominion University.
 Radford University.
 The College of William and Mary in Virginia.
 The Library of Virginia.
 The Science Museum of Virginia.
 University of Virginia.
 Virginia Commonwealth University.
 Virginia Community College System.
 Virginia Military Institute.
 Virginia Museum of Fine Arts.
 Virginia Polytechnic Institute and State University.
 Virginia State University.

Foundations

Chippokes Plantation Farm Foundation.
 Rural Virginia Development Foundation.
 Virginia Arts Foundation.
 Virginia Historic Preservation Foundation.
 Virginia *Land* Conservation and Recreation Foundation.
 Virginia Outdoor Foundation.

Museum

Virginia Museum of Natural History.

Partnership

A. L. Philpott Manufacturing Extension Partnership.

Plantation

Gunston Hall Plantation.

§ 10.1-202. Gifts and funds for state parks to constitute Conservation Resources Fund.

Gifts of money, entrance fees, fees from contractor-operated concessions, and all funds accruing from, on account of, or to the use of state parks acquired or held by the Department shall constitute the Conservation Resources Fund. The Fund shall be under the direction and control of the Director and may be expended for the conservation, development, maintenance, and operations of state parks acquired

or held by the Department. However, expenditures from the Fund for operation of state parks shall not exceed, in any fiscal year, an amount equal to twenty-five percent of the revenues deposited into the Fund from fees and charges paid by visitors to state parks. The remainder of the revenues deposited into the Fund from fees and charges paid by visitors to state parks shall be expended for the conservation and development of state parks. Revenues generated from state park concessions operated by the Department shall be deposited into a separate special fund for use in operating such concessions. Unexpended portions of the Fund shall not revert to the state treasury at the close of any fiscal year unless specified by an act of the General Assembly. The Fund shall not include any gifts of money to the Virginia *Land Conservation and Recreation* Foundation or other funds deposited in the Virginia *Land Conservation and Recreation* Fund.

The proceeds from the sales of surplus property shall be used exclusively for the acquisition and development of state parks.

CHAPTER 10.2.

VIRGINIA LAND CONSERVATION AND RECREATION FOUNDATION.

§ 10.1-1017. Foundation created.

There is hereby created the Virginia *Land Conservation and Recreation* Foundation, hereinafter referred to as the Foundation, a body politic and corporate to have such powers and duties as hereinafter provided.

§ 10.1-1018. Virginia Land Conservation Board of Trustees.

A. The Foundation shall be governed and administered by a Board of Trustees, consisting of the Secretary of Natural Resources, the State Treasurer or his designee, and seven trustees from the Commonwealth at large. Three of the trustees-at-large shall be appointed by the Governor, subject to confirmation by the General Assembly; two shall be appointed by the Speaker of the House of Delegates; and two shall be appointed by the Senate Committee on Privileges and Elections. The trustees-at-large shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and ~~conservation~~ *conservation*, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, *farming, farmland preservation*, fish and wildlife management, historic preservation, and outdoor recreation. The trustees-at-large shall initially be appointed for terms of office as follows: two for a term of two years, two for a term of three years, and three for a term of four years. Appointments thereafter shall be made for four-year terms. No trustee-at-large shall be eligible to serve more than two consecutive four-year terms. All trustees-at-large shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office. The terms of the Secretary of Natural Resources and the State Treasurer or ~~his~~ *their designee designees* shall be coincident with that of the Governor. Appointments to fill vacancies shall be made for the unexpired term.

B. The Secretary of Natural Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The trustees-at-large shall elect a vice-chairman annually from the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman.

C. Trustees of the Foundation shall receive no compensation for their services but shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Foundation.

D. The chairman of the Board, the State Treasurer, and any other person designated by the ~~board~~ *Board* to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

§ 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.

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 Virginia *Land Conservation and Recreation* Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the ~~purpose of purchasing~~ *purposes of*:

1. *Purchasing* fee simple title to or other rights, interests or privileges in property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, state forest lands, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, *agricultural and forestal lands* and open space; and

2. *Providing matching grants to holders as defined in § 10.1-1009 and public bodies as defined in § 10.1-1700, for purchasing fee simple title to or other rights, interests or privileges in property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, agricultural and forestal lands and open space.*

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

or unrestricted. For the purposes of this chapter, "restricted funds" shall mean those funds received by the Board to which specific conditions apply; "restricted funds" shall include, but not be limited to, general obligation bond moneys and conditional gifts. "Unrestricted funds" shall mean those received by the Foundation to which no specific conditions apply; "unrestricted funds" shall include, but not be limited to, moneys appropriated to the Fund by the General Assembly to which no specific conditions are attached and unconditional gifts.

C. All unrestricted funds in the Fund shall be allocated as follows: (i) twenty-five percent to natural area protection; (ii) twenty-five percent to open spaces and parks; (iii) twenty-five percent to farmlands and forest preservation; and (iv) twenty-five percent to historic area preservation.

C. D. 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 other than bond proceeds shall remain in the Fund and be credited to it.

D. E. A portion of the Fund, not to exceed twenty percent of the annual balance of unrestricted funds, may be used to develop properties purchased in fee simple with the assets of the Fund for public use including, but not limited to, development of trails, parking areas, infrastructure, and interpretive projects or to conduct environmental assessments or other preliminary evaluations of properties prior to the acquisition of any property interest.

E. F. The State Treasurer shall maintain the restricted funds and the unrestricted funds in separate accounts.

§ 10.1-1021. Powers of the Foundation.

In order to carry out its purposes, the Foundation shall have the following powers and duties:

1. To prepare a comprehensive plan that recognizes and seeks to implement all of the purposes for which the Foundation is created. In preparing this plan, the Foundation shall:

a. Develop a strategic plan for the expenditure of unrestricted moneys received by the Fund. In developing a strategic plan for expending unrestricted moneys from the Fund, the Board of Trustees shall establish criteria for the expenditure of such moneys. The plan shall take into account the purposes for which restricted funds have been expended or earmarked. Such criteria may include:

- (i) The ecological, outdoor recreational, ~~and~~ historic, *agricultural and forestal* value of the property;
- (ii) An assessment of market values;
- (iii) Consistency with local comprehensive plans;
- (iv) Geographical balance of properties and interests in properties to be purchased;
- (v) Availability of public and private matching funds to assist in the purchase;
- (vi) Imminent danger of loss of natural, outdoor, recreational or historic attributes of a significant portion of the land;
- (vii) Economic value to the locality and region attributable to the purchase; and
- (viii) Advisory opinions from local governments, state agencies or others;

b. Develop an inventory of those properties in which the Commonwealth holds a legal interest for the purpose set forth in subsection A of § 10.1-1020;

c. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following: (i) 1989 Virginia Outdoors Plan, (ii) Virginia Natural Heritage Plan, (iii) Virginia Institute of Marine Science Inventory, (iv) Virginia Joint Venture Board of the North American Waterfowl Management Plan, and (v) Virginia Board of Historic Resources Inventory; and

d. Maintain the inventory and needs assessment on an annual basis.

2. To expend directly or allocate the funds received by the Foundation to the appropriate state agencies for the purpose of acquiring those properties or property interests selected by the Board of Trustees. In the case of restricted funds the Board's powers shall be limited by the provisions of § 10.1-1022.

3. To submit a report biennially on the status of the Fund to the Governor and the General Assembly including, but not limited to, (i) implementation of its strategic plan, (ii) projects under consideration for acquisition with Fund moneys and (iii) expenditures from the Fund.

4. To enter into contracts and agreements, as approved by the Attorney General, to accomplish the purposes of the Foundation.

5. To receive and expend gifts, grants and donations from whatever source to further the purposes set forth in subsection B of § 10.1-1020.

6. To do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation and Fund are established.

§ 10.1-1022.1. Expenditure of funds for natural area protection.

A. No matching grant shall be made from the Fund to any holder or public body for purchasing an interest in land for the protection of a natural area unless:

1. The holder or public body has been in existence and operating in Virginia for more than five years;

2. The holder or public body has demonstrated the necessary commitment and financial capability to manage the property; and

3. *The Department has, after reviewing the grant application as provided in subsection B, recommended that the grant be made.*

B. Natural area grant applications shall be submitted to the Foundation, which shall forward the application to the Department. The application shall include a budget for the proposed purchase and for the management of the property. The Department shall consider the following in making its recommendation on whether the grant should be made:

1. Whether the project will make a significant contribution to the protection of habitats for rare, threatened, or endangered plant or animal species, rare or state-significant natural communities, other ecological resources, or natural areas of Virginia;

2. Whether the area addresses a protection need identified in the Virginia Natural Heritage Plan;

3. The rarity of the elements targeted for conservation;

4. The size and viability of the site; and

5. Whether the holder or public body has the capability to protect the site from short-and long-term stresses to the area.

C. Matching grant funds provided pursuant to this section shall be expended by the holder or public body within two years of receiving the funds, except that the Department may grant an extension of up to one year.

D. All property for which a matching grant is made pursuant to this section shall be dedicated as a natural area preserve as provided in § 10.1-213. Any such preserve that was purchased in fee simple by the holder or public body shall be open for public access for a reasonable amount of time each year, except as is necessary to protect sensitive resources or for management purposes, as determined by the holder or public body pursuant to an agreement with the Department.

§ 10.1-2213. Procedure for appropriation of state funds for historic preservation.

A. No state funds, other than for the maintenance and operation of those facilities specified in § 10.1-2211 or § 10.1-2212 and for the purchase of property for preservation of historical resources by the Virginia Land Conservation and Recreation Foundation as provided in Chapter 10.2 (§ 10.1-1017 et seq.) of this title, shall be appropriated or expended for or to historical societies, museums, foundations, associations or local governments as set forth in the general appropriations act for the maintenance of collections and exhibits or for the maintenance and operation of sites and facilities owned by historical organizations unless:

1. A request for state aid is filed by the organization with the Department, on forms prescribed by the Department, on or before the opening day of each regular session of the General Assembly in an even-numbered year. Requests shall be considered by the Governor and the General Assembly only in even-numbered years. The Department shall review each application made by an organization for state aid prior to consideration by the General Assembly. The Department shall provide a timely review of any amendments proposed by members of the General Assembly to the chairmen of the House Appropriations and Senate Finance Committees. The review shall examine the merits of each request, including data showing the percentage of nonstate funds raised by the organization for the proposed project. The review and analysis provided by the Department shall be strictly advisory. The Department shall forward to the Department of Planning and Budget any application which is not for the maintenance of collections and exhibits or for the maintenance and operation of sites and facilities owned by historical organizations. Such applications shall be governed by the procedures identified in § 2.1-394.1.

2. Such organization shall certify to the satisfaction of the Department that matching funds from local or private sources are available in an amount at least equal to the amount of the request in cash or in kind contributions which are deemed acceptable to the Department. These matching funds must be concurrent with the project for which the state grant is requested. Contributions received and spent prior to the state grant shall not be considered in satisfying the requirements of this subdivision.

3. Such organization shall provide documentation of its tax exempt status under § 501 (c) (3) of the United States Internal Revenue Code.

For the purposes of this section, no grant shall be approved for private institutions of higher education or religious organizations.

B. In addition to the requirements of subsection A of this section, no state funds other than for those facilities specified in § 10.1-2211 or § 10.1-2212 shall be appropriated or expended for the renovation or reconstruction of any historic site as set forth in § 2.1-394.1 unless:

1. The property is designated as a historic landmark by the Board and is located on the register prepared by the Department pursuant to § 10.1-2202 or has been declared eligible by the Board for such designation but has not actually been placed on the register of buildings and sites provided for in § 10.1-2202;

2. The society, museum, foundation or association owning such property enters into an agreement with the Department that the property will be open to the public for at least 100 days per year for no less than five years following completion, renovation, or reconstruction;

3. The organization submits the plans and specifications of the project to the Department for review and approval to ensure that the project meets generally accepted standards for historic preservation; and

4. The organization owning the property grants to the Commonwealth a perpetual easement placing restrictions on the use or development of the property satisfactory to the Board, if the organization has received \$50,000 or more within a four-year period pursuant to this section. The easement shall be for the purpose of preserving those features of the property which led to its designation as a historic landmark.

Nothing contained in this subsection shall prohibit any organization from charging a reasonable admission fee during the five-year period required in subdivision 2 herein if the fee is comparable to fees charged at similar facilities in the area.

C. The Department shall be responsible for the administration of this section and §§ 10.1-2211 and 10.1-2212 and the disbursement of all funds appropriated thereto.

State funds appropriated for the operation of historical societies, museums, foundations and associations shall be expended for historical facilities, reenactments, meetings, conferences, tours, seminars or other general operating expenses as may be specified in the general appropriations act. Funds appropriated for these purposes shall be distributed annually to the treasurers of any such organizations. The appropriations act shall clearly designate that all such funds are to be used for the operating expenses of such organization.