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## HOUSE BILL NO. 2225

Offered January 21, 1999

A *BILL to amend and reenact § 10.1-565 of the Code of Virginia, relating to erosion and sediment control.*

Patrons—Howell; Senator: Chichester

Referred to Committee on Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:****1. That § 10.1-565 of the Code of Virginia is amended and reenacted as follows:**

§ 10.1-565. Approved plan required for issuance of grading, building, or other permits; security for performance.

A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed. Prior to issuance of any permit, the agency may also require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, *or* any combination thereof, or such other legal arrangement acceptable to the agency, to ensure that measures could be taken by the agency at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan as a result of his land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the estimated cost of the conservation action. If the agency takes such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty days of the achievement of adequate stabilization of the land-disturbing activity in any project or section thereof, the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated based upon the percentage of stabilization accomplished in the project or section thereof. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

B. *In lieu of the security for performance requirements set forth in subsection A, a locality may by ordinance establish an erosion and sediment control recovery fund. Such fund shall be used for single family residential development only, and shall be used to provide erosion and sediment control protection in cases where the developer has failed to meet the requirements of the local erosion and sediment control ordinance. A locality shall establish such fund by requiring an additional fee from building permit applicants and directing such additional fee to the fund. The amount of such additional fee shall be established by the governing body in the ordinance and shall be required only for such period of time as necessary to raise the fund to a level deemed adequate by the locality to provide the necessary erosion and sediment control protection.*

INTRODUCED

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