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HOUSE BILL NO. 2490

Offered January 21, 1999

A BILL to amend and reenact §§ 2.1-1.5 and 10.1-2402 of the Code of Virginia; to authorize the Virginia Historic Preservation Foundation, the Department of Historic Resources, and the Association for the Preservation of Virginia Antiquities to enter into a trust agreement; and to repeal Chapter 24 (§§ 10.1-2400 through 10.1-2404) of Title 10.1 of the Code of Virginia, all relating to establishing a trust agreement and preservation fund.

Patrons—Guest, Bryant, Day, Dillard, Howell, Katzen, Kilgore, McEachin, Orrock, Puller, Reid, Sherwood, Tate and Woodrum; Senators: Couric, Gartlan, Hawkins, Miller, K.G., Reynolds, Saslaw and Stosch

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.1-1.5 and 10.1-2402 of the Code of Virginia are amended and reenacted 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, The College of William and Mary in Virginia.
 Board of Visitors, George Mason University.
 Board of Visitors, Gunston Hall Plantation.

INTRODUCED

HB2490

- 60 Board of Visitors, James Madison University.
- 61 Board of Visitors, Longwood College.
- 62 Board of Visitors, Mary Washington College.
- 63 Board of Visitors to Mount Vernon.
- 64 Board of Visitors, Norfolk State University.
- 65 Board of Visitors, Old Dominion University.
- 66 Board of Visitors, Radford University.
- 67 Board of Visitors, University of Virginia.
- 68 Board of Visitors, Virginia Commonwealth University.
- 69 Board of Visitors, Virginia Military Institute.
- 70 Board of Visitors, Virginia Polytechnic Institute and State University.
- 71 Board of Visitors, Virginia State University.
- 72 Commonwealth Health Research Board.
- 73 Governing Board, Virginia College Building Authority.
- 74 Governing Board, Virginia Public School Authority.
- 75 Library Board, The Library of Virginia.
- 76 Motor Vehicle Dealer Board.
- 77 State Board for Community Colleges, Virginia Community College System.
- 78 Virginia-Israel Advisory Board.
- 79 (Effective until July 1, 2002) Wireless E-911 Service Board.
- 80 Commissions
- 81 Advisory Commission on the Virginia Schools for the Deaf and the Blind.
- 82 Alexandria Historical Restoration and Preservation Commission.
- 83 Charitable Gaming Commission.
- 84 Chesapeake Bay Bridge and Tunnel Commission.
- 85 Hampton Roads Sanitation District Commission.
- 86 Districts
- 87 Chesapeake Bay Bridge and Tunnel District.
- 88 Hampton Roads Sanitation District.
- 89 Educational Institutions
- 90 Christopher Newport University.
- 91 College of William and Mary in Virginia.
- 92 Frontier Culture Museum of Virginia.
- 93 George Mason University.
- 94 James Madison University.
- 95 Jamestown-Yorktown Foundation.
- 96 Longwood College.
- 97 Mary Washington College.
- 98 Miller School of Albemarle.
- 99 Norfolk State University.
- 100 Old Dominion University.
- 101 Radford University.
- 102 The Science Museum of Virginia.
- 103 University of Virginia.
- 104 Virginia Commonwealth University.
- 105 Virginia Community College System.
- 106 Virginia Military Institute.
- 107 Virginia Museum of Fine Arts.
- 108 Virginia Polytechnic Institute and State University.
- 109 The Library of Virginia.
- 110 Virginia State University.
- 111 Foundations
- 112 Chippokes Plantation Farm Foundation.
- 113 Rural Virginia Development Foundation.
- 114 Virginia Arts Foundation.
- 115 Virginia Conservation and Recreation Foundation.
- 116 ~~Virginia Historic Preservation Foundation.~~
- 117 Virginia Outdoor Foundation. Museum
- 118 Virginia Museum of Natural History. Partnership
- 119 A. L. Philpott Manufacturing Extension Partnership. Plantation
- 120 Gunston Hall Plantation.
- 121 § 10.1-2402. Powers of the Foundation; establishment of Virginia Historic Preservation Revolving

Fund; transfer of assets.

A. In order to carry out its purpose, the Foundation shall have the following powers:

1. To establish, administer, manage, including the creation of reserves, and make expenditures from a special nonreverting trust fund on the books of the Comptroller which shall be known as the Historic Preservation Revolving Fund, hereinafter referred to as the fund, for the sole purpose of the preservation of properties on or eligible for the Virginia Landmarks Register through fee simple acquisition of the properties, *or interest therein*, retention of a perpetual preservation easement on acquired properties, and subsequent resale of properties thus protected to appropriate persons, firms, or corporations; or transfer to appropriate state agencies. The fund shall be used only when, in the discretion of the Board of Trustees, acquisition and subsequent resale are the best feasible means of protecting such properties from an identifiable threat of destruction or of the loss of those qualities for which it is designated or eligible to be designated as a landmark by the Virginia Historic Resources Board. The fund shall include such funds as may be appropriated by the General Assembly from time to time and designated for the fund, gifts and bequests and all proceeds from the resale of properties, income, interest, dividends, and appreciation which may accrue thereto. Any moneys designated for the fund shall remain in the fund and shall not revert to the general fund.

In making any determination as to the acquisition in fee simple of any real property, the trustees shall consider, among such other factors as they deem appropriate, the potential for subsequent resale of the property under consideration.

2. To accept, hold, administer and receive gifts and bequests of money, securities, or other property of whatsoever character, absolutely or in trust, to the fund, for the purposes for which the Foundation is created. Unless otherwise restricted by the terms of the gift or bequest, the Foundation is authorized to sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its objectives.

3. To enter into contracts and agreements to accomplish the purposes of the Foundation.

4. Generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation is created.

B. The Foundation may transfer the assets of the fund to the Association for the Preservation of Virginia Antiquities, as Trustee, to constitute the trust fund under the trust agreement authorized by § 1 of the second enactment of this act; however, if, prior to January 1, 2003, the Governor directs the reconveyance of such trust fund pursuant to subsection C of § 2 of the second enactment of this act, the trust assets shall be returned to the Foundation to be deposited in the Historic Preservation Revolving Fund.

2. § 1. That the Board of Trustees of the Virginia Historic Preservation Foundation and the Director of the Department of Historic Resources are authorized on behalf of the Commonwealth to enter into a trust agreement with the Association for the Preservation of Virginia Antiquities, whereby the Association for the Preservation of Virginia Antiquities shall be trustee and the Commonwealth shall be beneficiary. The Board of Trustees of the Virginia Historic Preservation Foundation is authorized to create a trust fund, to be known as the Historic Preservation Trust Fund, known hereafter as the "Trust Fund," by transferring all of the assets of the Virginia Historic Preservation Revolving Fund to the Association for the Preservation of Virginia Antiquities, as Trustee of the Trust Fund, including its cash, notes, mortgages, other securities, real estate and all its other assets, to be administered as follows:

1. The Trustee shall serve without compensation;

2. The Trust Fund shall be administered and managed by the Property Committee of the Association for the Preservation of Virginia Antiquities;

3. The Director of the Department of Historic Resources, or his designee, shall serve as a voting member of the Property Committee of the Association for the Preservation of Virginia Antiquities on all questions concerning properties to be acquired and sold by the Trust Fund;

4. The Trust Fund shall be used for the sole purpose of preserving properties listed or eligible for listing on the Virginia Landmarks Register through the acquisition of such properties, or interests therein, the donation of a perpetual preservation easement on such properties to the Board of Historic Resources, and the subsequent resale of properties, or interests therein, thus protected to appropriate individuals, corporations partnerships, associations or other legal entities, or the resale or transfer to appropriate public agencies, when, in the discretion of the Trustee, such action is the best feasible means of protecting such properties from an identifiable threat of destruction or from the loss of those qualities for which they were designated or eligible to be designated as landmarks by the Board of Historic Resources; and

5. The Trust Fund shall be operated as a revolving fund and all proceeds from the resale of properties, and any income which may accrue on the trust properties, shall be returned to and deposited in the Trust Fund.

The terms, conditions and form of the trust agreement shall be reviewed and approved by the

183 Governor and the Attorney General.

184 § 2. A. The Trust Fund shall consist of the property received pursuant to § 1 and any gifts, grants,
185 or appropriations made to the Trust Fund. Gifts and bequests of money, securities, and other property
186 to the Trust Fund, and the income therefrom, shall be deemed to be gifts to the Commonwealth and
187 therefore exempt from all state and local taxes. Any income earned from gifts, bequests, rent, securities,
188 and other property of the Trust Fund shall be the property of the Trust Fund. Any gifts received by the
189 Virginia Historic Preservation Foundation while the Association for the Preservation of Virginia
190 Antiquities is administering the Trust Fund, as well as any income which may accrue thereon, shall be
191 deposited in the Trust Fund within ninety days of receipt.

192 B. By November 1 of each year, the Association for the Preservation of Virginia Antiquities shall
193 submit a copy of its audited financial statement to the Director of the Department of Historic Resources
194 and to the Attorney General.

195 C. Prior to January 1, 2003, the Board of Trustees of the Virginia Historic Preservation Foundation
196 is authorized to review the operation of the Trust Fund. If it finds that such operation is not fulfilling
197 the requirements of the trust agreement, it may recommend to the Governor that the trust agreement
198 with the Association for the Preservation of Virginia Antiquities be terminated. If the Governor finds
199 that such termination is in the best interest of the Commonwealth, he may direct the Association for the
200 Preservation of Virginia Antiquities to reconvey all the assets of the Trust Fund to the Virginia Historic
201 Preservation Foundation.

202 D. On and after January 1, 2003, if the Fund has not been reconveyed to the Virginia Historic
203 Preservation Foundation, (i) the Foundation shall cease to exist and its minutes and any remaining
204 assets shall become the property of the Department of Historic Resources and (ii) the Attorney General
205 shall have the authority to take legal action on behalf of the Commonwealth to enforce the terms of the
206 trust agreement established under § 1.

207 3. That the amendments made by this act to § 2.1-1.5 shall become effective January 1, 2003, if the
208 assets of the Virginia Historic Trust Fund have not been reconveyed to the Virginia Historic
209 Preservation Foundation under subsection C of § 2 of the second enactment of this act.

210 4. That Chapter 24 (§§ 10.1-2400 through 10.1-2404) of Title 10.1 of the Code of Virginia is
211 repealed effective January 1, 2003, if the assets of the Virginia Historic Trust Fund have not been
212 reconveyed to the Virginia Historic Preservation Foundation under subsection C of § 2 of the
213 second enactment of this act.