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SENATE BILL NO. 139

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation)

(Patron Prior to Substitute—Senator Reynolds)

Senate Amendments in [] — February 10, 1998

A BILL to amend and reenact § 15.2-2277 of the Code of Virginia, relating to roads in certain counties.

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2277 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2277. Certain counties may require that notice be given to deed grantees of certain disclaimers regarding responsibility for roads; county eligible to have certain streets taken into secondary system; private road maintenance.

A. ~~Franklin County~~ Any county having a population of at least 39,500 but no more than 39,570 may by ordinance require that the clerk of the circuit court for the county, when a division of land creates any parcels equal to or greater than five acres, notify every grantee shown on the recorded deed for such parcel (i) that any roads constructed to serve parcels of five acres or more will not be accepted by the Virginia Department of Transportation or by the county unless the roads meet applicable subdivision street standards of the Department, and (ii) that neither the Department nor the county will maintain such roads until such time as the roads are brought into compliance with applicable subdivision street standards of the Department in effect at the time and without cost to funds administered by the Department or the county. The notice shall be by first class mail to the address shown on the recorded deed.

B. ~~The~~ Any such county shall be deemed to have met the definition of "county" under subsection B of § 33.1-72.1 upon adoption of such ordinance and shall be eligible to have certain streets taken into the secondary system pursuant to § 33.1-72.1 without additional action being necessitated with regard to subdivision ordinances.

C. Any county having a population of at least 39,500 but no more than 39,570 may by ordinance authorize the majority of lot owners on any private road, [as described in subsection A above,] whether acting as a group or through a duly organized homeowner's association, to collect from each lot owner on the private road a pro-rata share of the reasonable costs of repair, upkeep and maintenance of the private road.

The prevailing parties in any court action pursuant to such ordinance shall be entitled to an award of their costs including reasonable attorney's fees from the losing parties. For the purposes of such ordinance, "pro-rata share" means the total maintenance cost divided by the total number of lots served by the private road without regard for the amount of road usage or lot distance from a state-maintained road. However, an alternate method of cost sharing agreed to by the majority of the lot owners may be utilized in lieu of the pro rata method. "Reasonable costs of repair, upkeep and maintenance" includes costs for minor grading, ditching, application of gravel or stone, and installation of drainage pipes as may be necessary to prevent on-going damage to the road.

ENGROSSED

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