

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 10.1-1410 of the Code of Virginia, relating to financial assurance for*  
3 *abandoned solid waste facilities.*

4 [H 1022]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 10.1-1410 of the Code of Virginia is amended and reenacted as follows:**

8 § 10.1-1410. Financial responsibility for abandoned facilities; penalties.

9 A. The Board shall promulgate regulations which ensure that if a facility for the disposal or  
10 treatment of solid waste is abandoned, the costs associated with protecting the public health and safety  
11 from the consequences of such abandonment may be recovered from the person abandoning the facility.

12 B. The regulations may include *provisions for bonding requirements*, the creation of a trust fund to  
13 be maintained within the Department, self-insurance, other forms of commercial insurance, or such other  
14 mechanism as the Department may deem appropriate. Regulations governing the amount thereof shall  
15 take into consideration the potential for contamination and injury by the solid waste, the cost of disposal  
16 of the solid waste and the cost of restoring the facility to a safe condition. Any bonding requirements  
17 shall include a provision authorizing the use of personal bonds or other similar surety deemed sufficient  
18 to provide the protections specified in subsection A upon a finding by the Director that commercial  
19 insurance or surety bond cannot be obtained in the voluntary market due to circumstances beyond the  
20 control of the permit holder. *Any commercial insurance or surety obtained in the voluntary market shall*  
21 *be written by an insurer licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2.*

22 C. No state governmental agency shall be required to comply with such regulations.

23 D. Forfeiture of any financial obligation imposed pursuant to this section shall not relieve any holder  
24 of a permit issued pursuant to the provisions of this article of any other legal obligations for the  
25 consequences of abandonment of any facility.

26 E. Any funds forfeited prior to July 1, 1995, pursuant to this section and the regulations of the Board  
27 shall be paid over to the county, city or town in which the abandoned facility is located. The county,  
28 city or town in which the facility is located shall expend forfeited funds as necessary to restore and  
29 maintain the facility in a safe condition.

30 F. Any funds forfeited on or after July 1, 1995, pursuant to this section and the regulations of the  
31 Board shall be paid over to the Director. The Director shall then expend forfeited funds as necessary  
32 solely to restore and maintain the facility in a safe condition. Nothing in this section shall require the  
33 Director to expend funds from any other source to carry out the activities contemplated under this  
34 subsection.

35 G. Any person who knowingly and willfully abandons a solid waste management facility without  
36 proper closure or without providing adequate financial assurance instruments for such closure shall, if  
37 such failure to close results in a significant harm or an imminent and substantial threat of significant  
38 harm to human health or the environment, be liable to the Commonwealth and any political subdivision  
39 for the costs incurred in abating, controlling, preventing, removing, or containing such harm or threat.

40 Any person who knowingly and willfully abandons a solid waste management facility without proper  
41 closure or without providing adequate financial assurance instruments for such closure shall, if such  
42 failure to close results in a significant harm or an imminent and substantial threat of significant harm to  
43 human health or the environment, be guilty of a Class 4 felony.

ENROLLED

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