

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Chapter 11 of Title 10.1 an article numbered 14,*
3 *consisting of sections numbered 10.1-1181.13, 10.1-1181.14, and 10.1-1181.15, relating to voluntary*
4 *forest mitigation agreements.*

5 [S 674]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Chapter 11 of Title 10.1 an article**
9 **numbered 14, consisting of sections numbered 10.1-1181.13, 10.1-1181.14, and 10.1-1181.15, as**
10 **follows:**

11 *Article 14.*12 *Voluntary Forest Mitigation.*13 **§ 10.1-1181.13. Definitions.**14 *As used in this article, unless the context requires a different meaning:*15 *"Construction project" means any land-disturbing activity that involves construction of infrastructure,*
16 *including interstate highways, pipelines, or energy generation and transmission facilities.*17 *"Forest mitigation" means addressing the direct and indirect adverse impacts to forests that may be*
18 *caused by a construction project by avoiding and minimizing impacts to the extent practicable and then*
19 *compensating for the remaining impacts.*20 **§ 10.1-1181.14. Applicability.**21 *The provisions of this article shall not apply to any forest mitigation required by law or to any*
22 *mitigation agreements entered into before July 1, 2020.*23 **§ 10.1-1181.15. Forest mitigation agreements.**24 *A. The Secretary of Natural Resources, the Secretary of Agriculture and Forestry, or any agency*
25 *within those secretariats, or the Virginia Outdoors Foundation may enter into an agreement with the*
26 *owner or operator of construction projects to accomplish forest mitigation. At a minimum, any such*
27 *agreement shall:*28 *1. Document the extent to which the construction project has been designed to avoid and minimize*
29 *adverse impacts to forests;*30 *2. Provide funding for compensation for impacts that approximates at least no net loss of forest*
31 *acreage and function;*32 *3. Provide for the payment of such funds by the owner or operator to a nonprofit organization, the*
33 *Virginia Outdoors Foundation, or an agency within the secretariats of Agriculture and Forestry or*
34 *Natural Resources. The recipient of the funds shall establish criteria for the expenditure of the funds,*
35 *shall provide such criteria to the public, and shall regularly provide to the public updated information*
36 *on how funds are spent; and*37 *4. Ensure that expenditures of the funds occur in reasonable proximity to the forest impacts that are*
38 *caused by the construction project. Reasonable proximity shall be determined by the recipient of the*
39 *funds and shall be based on appropriate ecological boundaries, with consideration given to communities*
40 *adversely affected by the construction project.*41 *B. Nothing in this section shall preclude the expenditure of funds (i) by the recipient of the funds for*
42 *the costs of administration of the funds or (ii) for water quality protection and improvement, land*
43 *conservation, or environmental education.*44 *C. No agreement entered into pursuant to this article shall identify any specific expenditure.*45 *D. No agreement entered into pursuant to this article shall include any waiver of liability for*
46 *environmental damage caused by the construction project. No agreement entered into under this article*
47 *shall guarantee regulatory approval for a construction project by any state agency.*48 *E. No forest mitigation agreement entered into pursuant to this article shall prohibit sustainable*
49 *forest management on a property receiving funding except as necessary to comply with a requirement of*
50 *the Commonwealth that specific conservation values be protected on such property.*