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SENATE BILL NO. 1392

Offered January 11, 2023

Prefiled January 11, 2023

A *BILL to amend and reenact § 10.1-603 of the Code of Virginia, relating to state agency compliance with flood plain management regulations.*

Patron—Lewis

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-603 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-603. State agency compliance.

A. All agencies and departments of the Commonwealth shall comply with the flood plain regulations established pursuant to this article when planning for facilities in flood plains the following when undertaking development activities, including the construction or rehabilitation of buildings and structures, on state-owned property located in a flood plain:

1. Adhere to all flood plain management regulations pursuant to this chapter; or
2. Receive formal approval from the Department regarding compliance with the applicable state standard for development in a flood plain.

B. Compliance with the provisions of subsection A shall be documented and provided to the Department of General Services prior to formal approval of a project by the Department of General Services.

C. A variance may be issued by the Department of General Services, with approval from the Department, if no feasible alternative to development in a flood plain exists. However, such variance shall be issued only if:

1. Issuing the variance will not result in increased flood heights in excess of the state standard, additional threats to public safety, extraordinary public expense, or conflicts with existing local flood plain ordinances;
2. The development activities, including the construction or rehabilitation of a building or structure, is demonstrated to be a functionally dependent use, such as water treatment facilities, boat houses, fish hatcheries, or other similar uses;
3. The facility is historic and requires repair or rehabilitation and it has been demonstrated that the proposed repair or rehabilitation will not preclude the facility's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the facility; or
4. The development activity is demonstrated to be necessary to protect public health, safety, and welfare.

D. If the Department does not approve a variance for a project pursuant to subsection C, the Department of General Services shall not approve such project.

E. The Department of General Services shall provide all variances in writing to the applicant, the local community, and the Department. The Department shall maintain all documentation associated with such variances in perpetuity.

F. The Department may enter into a memorandum of understanding with a state agency to outline procedures and processes to expedite the review of proposed development activities, including the construction or rehabilitation of buildings and structures, on state-owned property located in a flood plain.

2. That, no later than September 30, 2023, the Department of Conservation and Recreation, in cooperation with the Secretaries of Administration, Agriculture and Forestry, Commerce and Trade, Education, Health and Human Resources, Natural Resources, Public Safety and Homeland Security, and Transportation, or their designees, the Special Assistant to the Governor for Coastal Adaptation and Protection, or his designee, and any additional state officials designated by the Chief Resilience Officer, shall establish state standards for development in a flood plain for all state agencies and departments of the Commonwealth. At a minimum, such standards shall require compliance with the National Flood Insurance Program and require all development by state agencies or departments of the Commonwealth that occurs in a Special Flood Hazard Area on state-owned land to be protected or flood-proofed against flooding and flood damage.

INTRODUCED

SB1392