

LD3202132

**HOUSE BILL NO. 2193**

Offered January 23, 1995

A *BILL to amend and reenact §§ 2.1-1.6, 2.1-504, 9-6.25:1, 10.1-1108, 28.2-1200, 28.2-1201, 28.2-1301, 28.2-1401, 41.1-3, 41.1-5, and 41.1-16 of the Code of Virginia; to amend the Code of Virginia by adding in Title 28.2 a chapter numbered 15, consisting of sections numbered 28.2-1500 through 28.2-1513; and to repeal § 41.1-4 of the Code of Virginia, relating to management of ungranted shores of the sea, marsh and meadowlands.*

Patron—Bloxom

Referred to Committee on Chesapeake and Its Tributaries

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

**1. That §§ 2.1-1.6, 2.1-504, 9-6.25:1, 10.1-1108, 28.2-1200, 28.2-1201, 28.2-1301, 28.2-1401, 41.1-3, 41.1-5, and 41.1-16 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 28.2 a chapter numbered 15, consisting of sections numbered 28.2-1500 through 28.2-1513, as follows:**

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for  
 Aging, Advisory Board on the  
 Agriculture and Consumer Services, Board of  
 Air Pollution, State Advisory Board on  
 Alcoholic Beverage Control Board, Virginia  
 Apple Board, Virginia State  
 Appomattox State Scenic River Advisory Board  
 Aquaculture Advisory Board  
 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for  
 Art and Architectural Review Board  
 Athletic Board, Virginia  
 Auctioneers Board  
 Audiology and Speech-Language Pathology, Board of  
 Aviation Board, Virginia  
 Barbers, Board for  
 Branch Pilots, Board for  
 Bright Flue-Cured Tobacco Board, Virginia  
 Building Code Technical Review Board, State  
 Catoctin Creek State Scenic River Advisory Board  
 Cattle Industry Board, Virginia  
 Cave Board  
 Certified Seed Board, State  
 Chesapeake Bay Local Assistance Board  
 Chickahominy State Scenic River Advisory Board  
 Child Abuse and Neglect, Advisory Board on  
 Chippokes Plantation Farm Foundation, Board of Trustees  
 Clinch Scenic River Advisory Board  
 Coal Mining Examiners, Board of  
 Coal Research and Development Advisory Board, Virginia  
 Coal Surface Mining Reclamation Fund Advisory Board  
*Coastal Land Management Advisory Council, Virginia*  
 Conservation and Development of Public Beaches, Board on  
 Conservation and Recreation, Board of  
 Contractors, Board for  
 Corn Board, Virginia  
 Correctional Education, Board of  
 Corrections, State Board of  
 Cosmetology, Board for  
 Criminal Justice Services Board

INTRODUCED

HB2193

60 Dark-Fired Tobacco Board, Virginia  
61 Deaf and Hard-of-Hearing, Advisory Board for the Department for the  
62 Dentistry, Board of  
63 Education, State Board of  
64 Egg Board, Virginia  
65 Emergency Medical Services Advisory Board  
66 Employment Agency Advisory Board  
67 Farmers Market Board, Virginia  
68 Film Office Advisory Board  
69 Fire Services Board, Virginia  
70 Forensic Science Advisory Board  
71 Forestry, Board of  
72 Funeral Directors and Embalmers, Board of  
73 Game and Inland Fisheries, Board of  
74 Geology, Board for  
75 Goose Creek Scenic River Advisory Board  
76 Health Planning Board, Virginia  
77 Health Professions, Board of  
78 Health, State Board of  
79 Hearing Aid Specialists, Board for  
80 Hemophilia Advisory Board  
81 Historic Resources, Board of  
82 Housing and Community Development, Board of  
83 Industrial Development Services Advisory Board  
84 Insurance Advisory Board, State  
85 Irish Potato Board, Virginia  
86 Laboratory Services Advisory Board  
87 Marine Products Board, Virginia  
88 Medical Advisory Board, Department of Motor Vehicles  
89 Medical Board of the Virginia Retirement System  
90 Medicare and Medicaid, Advisory Board on  
91 Medicine, Board of  
92 Mental Health, Mental Retardation and Substance Abuse Services Board, State  
93 Migrant and Seasonal Farmworkers Board  
94 Military Affairs, Board of  
95 Mineral Mining Examiners, Board of  
96 Minority Business Enterprise, Interdepartmental Board of the Department of  
97 Motor Vehicle Dealers' Advisory Board  
98 Networking Users Advisory Board, State  
99 Nottoway State Scenic River Advisory Board  
100 Nursing, Board of  
101 Nursing Home Administrators, Board of  
102 Occupational Therapy, Advisory Board on  
103 Oil and Gas Conservation Board, Virginia  
104 Opticians, Board for  
105 Optometry, Board of  
106 Peanut Board, Virginia  
107 Personnel Advisory Board  
108 Pesticide Control Board  
109 Pharmacy, Board of  
110 Physical Therapy to the Board of Medicine, Advisory Board on  
111 Plant Pollination Advisory Board  
112 Polygraph Examiners Advisory Board  
113 Pork Industry Board, Virginia  
114 Poultry Products Board, Virginia  
115 Private College Advisory Board  
116 Private Security Services Advisory Board  
117 Professional and Occupational Regulation, Board for  
118 Professional Counselors, Board of  
119 Professional Soil Scientists, Board for  
120 Psychiatric Advisory Board  
121 Psychology, Board of

- 122 Public Buildings Board, Virginia
- 123 Public Telecommunications Board, Virginia
- 124 Radiation Advisory Board
- 125 Real Estate Appraiser Board
- 126 Real Estate Board
- 127 Reciprocity Board, Department of Motor Vehicles
- 128 Recreational Fishing Advisory Board, Virginia
- 129 Recreation Specialists, Board of
- 130 Reforestation Board
- 131 Rehabilitation Providers, Advisory Board on
- 132 Rehabilitative Services, Board of
- 133 Respiratory Therapy, Advisory Board on
- 134 Retirement System Review Board
- 135 Rockfish State Scenic River Advisory Board
- 136 Safety and Health Codes Board
- 137 Seed Potato Board
- 138 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 139 Shenandoah State Scenic River Advisory Board
- 140 Small Business Advisory Board
- 141 Small Business Environmental Compliance Advisory Board
- 142 Small Grains Board, Virginia
- 143 Social Services, Board of
- 144 Social Work, Board of
- 145 Soil and Water Conservation Board, Virginia
- 146 Soybean Board, Virginia
- 147 State Air Pollution Control Board
- 148 Substance Abuse Certification Board
- 149 Surface Mining Review, Board of
- 150 Sweet Potato Board, Virginia
- 151 Teacher Education and Licensure, Advisory Board on
- 152 Tourism and Travel Services Advisory Board
- 153 Toxic Substances Advisory Board
- 154 Transportation Board, Commonwealth
- 155 Transportation Safety, Board of
- 156 Treasury Board, The, Department of the Treasury
- 157 Veterans' Affairs, Board on
- 158 Veterinary Medicine, Board of
- 159 Virginia Board for Asbestos Licensing
- 160 Virginia Coal Mine Safety Board
- 161 Virginia Correctional Enterprises Advisory Board
- 162 Virginia Employment Commission, State Advisory Board for the
- 163 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
- 164 Virginia Horse Industry Board
- 165 Virginia Manufactured Housing Board
- 166 Virginia Retirement System, Board of Trustees
- 167 Virginia Waste Management Board
- 168 Visually Handicapped, Virginia Board for the
- 169 Voluntary Formulary Board, Virginia
- 170 War Memorial Foundation, Virginia, Board of Trustees
- 171 Waste Management Facility Operators, Board for
- 172 Water Resources Research Center Statewide Advisory Board, Virginia
- 173 Waterworks and Wastewater Works Operators, Board for
- 174 Well Review Board, Virginia
- 175 Youth and Family Services, State Board of.
- 176 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 177 referred to as boards:
- 178 Compensation Board
- 179 State Board of Elections
- 180 State Water Control Board
- 181 Virginia Parole Board
- 182 Virginia Veterans Care Center Board of Trustees.

183 § 2.1-504. Definitions.

184 As used in §§ 2.1-504.1 through 2.1-512, unless a different meaning clearly appears from the context:  
185 "Institutions" shall include, but not be limited to, any corporation owned by the Commonwealth and  
186 subject to the control of the General Assembly.

187 "Property" shall mean an interest in land and any improvements thereon held by the Commonwealth  
188 and under the control of or occupied by any of its departments, agencies or institutions, but shall not  
189 include (i) real estate or rights-of-way acquired by the Department of Transportation for the construction  
190 of highways and (ii) *ungranted shores of the sea, marsh and meadowlands as defined in § 28.2-1500.*

191 "Recommend," "recommended," or "recommendation," when used with reference to a  
192 recommendation by the Department of General Services to the Governor, shall mean to advise either for  
193 or against a proposed action.

194 § 9-6.25:1. Advisory boards, commissions and councils.

195 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the  
196 following advisory boards, commissions and councils within the executive branch:

197 Advisory Board for the Department for the Deaf and Hard-of-Hearing

198 Advisory Board for the Department for the Aging

199 Advisory Board on Child Abuse and Neglect

200 Advisory Board on Medicare and Medicaid

201 Advisory Board on Occupational Therapy

202 Advisory Board on Physical Therapy to the Board of Medicine

203 Advisory Board on Rehabilitation Providers

204 Advisory Board on Respiratory Therapy to the Board of Medicine

205 Advisory Board on Teacher Education and Licensure

206 Advisory Council on Revenue Estimates

207 Advisory Council on the Virginia Business-Education Partnership Program

208 Appomattox State Scenic River Advisory Board

209 Aquaculture Advisory Board

210 Art and Architectural Review Board

211 (Effective until July 1, 1995) Board for the Visually Handicapped

212 Board of Directors, Virginia Truck and Ornamentals Research Station

213 Board of Forestry

214 Board of Military Affairs

215 Board of Rehabilitative Services

216 Board of Transportation Safety

217 Board of Trustees of the Family and Children's Trust Fund

218 Board of Visitors, Gunston Hall Plantation

219 Board on Veterans' Affairs

220 Catoctin Creek State Scenic River Advisory Board

221 Cave Board

222 Chickahominy State Scenic River Advisory Board

223 Clinch Scenic River Advisory Board

224 Coal Surface Mining Reclamation Fund Advisory Board

225 *Coastal Land Management Advisory Council, Virginia*

226 Council on Indians

227 Council on the Status of Women

228 Debt Capacity Advisory Committee

229 Emergency Medical Services Advisory Board

230 Falls of the James Committee

231 Film Office Advisory Board

232 Forensic Science Advisory Board

233 Goose Creek Scenic River Advisory Board

234 Governor's Council on Alcohol and Drug Abuse Problems

235 Governor's Mined Land Reclamation Advisory Committee

236 Hemophilia Advisory Board

237 Human Services Information and Referral Advisory Council

238 Industrial Development Services Advisory Board

239 Interagency Coordinating Council on Housing for the Disabled

240 Interdepartmental Board of the State Department of Minority Business Enterprise

241 Laboratory Services Advisory Board

242 Local Advisory Board to the Blue Ridge Community College

243 Local Advisory Board to the Central Virginia Community College

244 Local Advisory Board to the Dabney S. Lancaster Community College

245	Local Advisory Board to the Danville Community College
246	Local Advisory Board to the Eastern Shore Community College
247	Local Advisory Board to the Germanna Community College
248	Local Advisory Board to the J. Sargeant Reynolds Community College
249	Local Advisory Board to the John Tyler Community College
250	Local Advisory Board to the Lord Fairfax Community College
251	Local Advisory Board to the Mountain Empire Community College
252	Local Advisory Board to the New River Community College
253	Local Advisory Board to the Northern Virginia Community College
254	Local Advisory Board to the Patrick Henry Community College
255	Local Advisory Board to the Paul D. Camp Community College
256	Local Advisory Board to the Piedmont Virginia Community College
257	Local Advisory Board to the Rappahannock Community College
258	Local Advisory Board to the Southwest Virginia Community College
259	Local Advisory Board to the Thomas Nelson Community College
260	Local Advisory Board to the Tidewater Community College
261	Local Advisory Board to the Virginia Highlands Community College
262	Local Advisory Board to the Virginia Western Community College
263	Local Advisory Board to the Wytheville Community College
264	Long-Term Care Council
265	Maternal and Child Health Council
266	Medical Advisory Board, Department of Motor Vehicles
267	Medical Board of the Virginia Retirement System
268	Migrant and Seasonal Farmworkers Board
269	Motor Vehicle Dealer's Advisory Board
270	Nottoway State Scenic River Advisory Board
271	Personnel Advisory Board
272	Plant Pollination Advisory Board
273	Private College Advisory Board
274	Private Enterprise Commission
275	Private Security Services Advisory Board
276	Psychiatric Advisory Board
277	Radiation Advisory Board
278	Rappahannock Scenic River Advisory Board
279	Recreational Fishing Advisory Board, Virginia
280	Reforestation Board
281	Retirement System Review Board
282	Rockfish State Scenic River Advisory Board
283	Shenandoah State Scenic River Advisory Board
284	Small Business Advisory Board
285	Small Business Environmental Compliance Advisory Board
286	St. Mary's Scenic River Advisory Committee
287	State Advisory Board on Air Pollution
288	State Advisory Board for the Virginia Employment Commission
289	State Building Code Technical Review Board
290	State Council on Local Debt
291	State Health Benefits Advisory Council
292	State Insurance Advisory Board
293	State Land Evaluation Advisory Council
294	State Networking Users Advisory Board
295	State Public Records Advisory Council
296	Statewide Independent Living Council
297	Statewide Rehabilitation Advisory Council
298	Statewide Rehabilitation Advisory Council for the Blind
299	Staunton Scenic River Advisory Committee
300	Telecommunications Relay Service Advisory Board
301	Tourism and Travel Services Advisory Board
302	Toxic Substances Advisory Board
303	Virginia Advisory Commission on Intergovernmental Relations
304	Virginia Advisory Council for Adult Education and Literacy
305	Virginia Coal Mine Safety Board

306 Virginia Coal Research and Development Advisory Board  
307 Virginia Commission for the Arts  
308 Virginia Commission on the Bicentennial of the United States Constitution  
309 Virginia Correctional Enterprises Advisory Board  
310 Virginia Council on Coordinating Prevention  
311 Virginia Equal Employment Opportunity Council  
312 Virginia Interagency Coordinating Council  
313 Virginia Military Advisory Council  
314 Virginia Public Buildings Board  
315 Virginia Recycling Markets Development Council  
316 Virginia Technology Council  
317 Virginia Transplant Council  
318 Virginia Water Resources Research Center, Statewide Advisory Board  
319 Virginia Winegrowers Advisory Board.

320 § 10.1-1108. Waste and unappropriated lands.

321 Any waste and unappropriated land, other than ~~unappropriated~~ *ungranted shores of the sea*, marsh or  
322 meadowlands ~~lying on the eastern shore of Virginia~~ exempted from ~~entry and~~ grant by the provisions of  
323 § ~~41.1-441.1-3~~, may be set apart permanently for use as state forest land, by a grant and proclamation  
324 signed by the Governor upon the receipt from the State Forester of an application requesting that a  
325 certain piece, tract or parcel of waste and unappropriated land be so set apart. The State Forester shall  
326 submit with the application a copy of a report describing fully the location of the land, its character and  
327 suitability for forestry purposes together with a complete metes and bounds description of the boundary  
328 of the tract. The Department of General Services shall review the application and recommend either  
329 approval or disapproval of the transaction to the Governor. If the Governor determines that the land is  
330 more valuable for forestry purposes than for agricultural or any other purposes, he may authorize the  
331 preparation of a grant which shall be reviewed for legal sufficiency by the Attorney General for the  
332 Governor's signature and the lesser seal of the Commonwealth.

333 All lands so granted shall be subject to statutes and regulations relating to the regulation,  
334 management, protection and administration of state forests.

335 § 28.2-1200. Ungranted beds of bays, rivers, creeks and shores of the sea to remain in common.

336 All the beds of the bays, rivers, *and* creeks ~~and the shores of the sea~~ within the jurisdiction of the  
337 Commonwealth; ~~that were~~ not conveyed by special grant or compact according to law, shall remain the  
338 property of the Commonwealth and may be used as a common by all the people of the Commonwealth  
339 for the purpose of fishing, fowling, *hunting*, and taking and catching oysters and other shellfish. No  
340 grant shall be issued by the State Librarian to pass any estate or interest of the Commonwealth in any  
341 natural oyster bed, rock, or shoal, whether or not it ebbs bare.

342 § 28.2-1201. Ungranted islands which rise from lands which are property of the Commonwealth.

343 A. ~~All~~ *Except as otherwise provided in subsections B and C hereof*, all ungranted islands which rise  
344 by natural or artificial causes from ~~lands which are a common~~ *the beds of bays, rivers and creeks that*  
345 *are ungranted* under § 28.2-1200 shall remain in public ownership and continue as a common ~~the~~  
346 *property of the Commonwealth and shall be managed by the Commission as provided in Article 2*  
347 *(§ 28.2-1503 et seq.) of Chapter 15 of this title. This section shall not apply to accretions to privately*  
348 *owned lands or islands, whether or not they are used as commons. In case of any conflict between the*  
349 *provisions of this subsection and the common law of accretion, reliction and avulsion, such common law*  
350 *shall control.*

351 B. Any ~~unappropriated~~ *ungranted* island or land, whether currently in existence or subsequently  
352 created, that ~~now or~~ hereafter abuts a barrier island of the Eastern Shore is hereby dedicated as a natural  
353 area preserve within the meaning of § 10.1-213.

354 C. *This section shall not apply to accretions to privately owned lands or islands, whether or not they*  
355 *are used as commons.*

356 § 28.2-1301. Powers and duties of the Commission.

357 A. The Commission may receive gifts, grants, bequests, and devises of wetlands and money which  
358 shall be held for the uses prescribed by the donor, grantor, or testator and in accordance with the  
359 provisions of this chapter. The Commission shall manage any wetlands it receives so as to maximize  
360 their ecological value *as provided in Article 2 (§ 28.2-1503, et seq.) of Chapter 15 of this title.*

361 B. The Commission shall preserve and prevent the despoliation and destruction of wetlands while  
362 accommodating necessary economic development in a manner consistent with wetlands preservation.

363 C. The Commission shall manage all ~~unappropriated~~ *marsh or meadowlands lying on the Eastern*  
364 *Shore of Virginia which remain ungranted pursuant to the provisions of § 41.1-4.*

365 D. In order to perform its duties under this section and to assist counties, cities, and towns in  
366 regulating wetlands, the Commission shall promulgate and periodically update guidelines which  
367 scientifically evaluate vegetated and nonvegetated wetlands by type and describe the consequences of

use of these wetlands types. The Virginia Institute of Marine Science shall provide advice and assistance to the Commission in developing these guidelines by evaluating wetlands by type and continuously maintaining and updating an inventory of vegetated wetlands.

ED. In developing guidelines or regulations under this chapter the Commission shall consult with all affected state agencies. Consistent with other legal rights, consideration shall be given to the unique character of the Commonwealth's tidal wetlands which are essential for the production of marine and inland wildlife, waterfowl, finfish, shellfish and flora; serve as a valuable protective barrier against floods, tidal storms and the erosion of the Commonwealth's shores and soil; are important for the absorption of silt and pollutants; and are important for recreational and aesthetic enjoyment of the people and for the promotion of tourism, navigation and commerce.

§ 28.2-1401. Powers and duties of Commission.

A. The Commission may receive gifts, grants, bequests, and devises of coastal primary sand dunes, beaches, and money which shall be held for the uses prescribed by the donor, grantor, or testator and in accordance with the provisions of this chapter.

B. The Commission shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. Whenever practical, the Commission shall accommodate necessary economic development in a manner consistent with the protection of these features. The Commission shall manage any coastal primary sand dunes and beaches it receives so as to maximize their ecological value as provided in Article 2 (§ 28.2-1503 et seq.) of Chapter 15 of this title.

C. In order to perform its duties under this section and to assist counties, cities and towns in regulating coastal primary sand dunes and beaches, the Commission shall, with the advice and assistance of the Virginia Institute of Marine Science, promulgate guidelines which describe the consequences of use of these dunes and beaches.

D. In developing guidelines or regulations under this chapter, the Commission shall consult with all affected state agencies. Consistent with other legal rights, consideration shall be given to the importance of coastal primary sand dunes with their unique physiographic features which, in their natural state, serve as protective barriers from the effects of flooding and erosion caused by coastal storms, thereby protecting life and property; provide an essential source of natural sand replenishment for beaches and an important natural habitat for coastal fauna; and enhance the scenic and recreational attractiveness of Virginia's coastal area.

## CHAPTER 15.

### UNGRANTED SHORES OF THE SEA, MARSHES AND MEADOWLANDS.

#### Article 1.

#### General Provisions.

##### § 28.2-1500. Definitions.

*As used in this chapter, unless the context requires a different meaning:*

"Beach" has the same meaning ascribed thereto in subsection A of § 28.2-1400. For purposes of §§ 28.2-1502, 1503 and 1504, however, "beach" does not include any property that is dedicated as a natural area preserve pursuant to the provisions of § 28.2-1201 B.

"Inventory" means a set of maps prepared by, at the direction of, or with the approval of the Commission, mapping certain ungranted shores of the sea, marsh and meadowlands in any county in that portion of the Commonwealth separated from the larger portion of the Commonwealth by the Chesapeake Bay.

"Marsh" or "meadowland" has the same meaning ascribed to vegetated wetlands in § 28.2-1300. For purposes of §§ 28.2-1502, 1503, and 1504, however, "marsh" or "meadowland" does not include any property that is dedicated as a natural area preserve pursuant to the provisions of § 28.2-1201 B.

"Shores of the sea" means a beach or any unvegetated lands lying contiguous to mean low water and between mean low water and mean high water. For purposes of §§ 28.2-1502, 1503 and 1504, however, "shores of the sea" does not include any property that is dedicated as a natural area preserve pursuant to the provisions of § 28.2-1201 B.

"Ungranted shores of the sea, marsh or meadowlands" means (i) shores of the sea which were not conveyed by special grant or compact according to law prior to April 1, 1873, and which have not been conveyed by special grant of the General Assembly on or after that date and (ii) marshes or meadowlands which were not appropriated and remained ungranted prior to February 24, 1888, and which have not been conveyed by special grant of the General Assembly on or after that date.

"Virginia Coastal Land Management Advisory Council" or "Council" means the Virginia Coastal Land Management Advisory Council created pursuant to § 28.2-1505.

##### § 28.2-1501. Powers and duties of Commission.

A. The Commission may receive gifts, grants, bequests, and devises of shores of the sea, marsh meadowlands, and money which shall be held for the uses prescribed by the donor, grantor, or testator in accordance with the provisions of this chapter. The Commission shall manage any shores of the sea,

marsh or meadowlands it receives as prescribed in Article 2 (§ 28.2-1503 et seq.) of this chapter.

B. The Commission may promulgate regulations and guidelines necessary to carry out the provisions of this chapter.

§ 28.2-1502. Ownership of ungranted shores of the sea, marsh and meadowlands.

All ungranted shores of the sea, marsh and meadowlands shall remain the property of the Commonwealth. Such ungranted marsh and meadowlands which have been used as a commons by the people of the Commonwealth shall continue as a commons for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. All ungranted shores of the sea may be used as a commons for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. The Commission shall manage all ungranted shores of the sea, marsh and meadowlands as provided in Article 2 (§ 28.2-1503 et seq.) of this chapter.

Article 2.

Management of Ungranted Shores of the Sea, Marsh and Meadowlands.

§ 28.2-1503. Management of lands.

The Commission shall manage all ungranted shores of the sea, marsh and meadowlands, and all other lands of the Commonwealth for which management duties have been given to the Commission, as steward for the property interests of the Commonwealth. All agencies of the Commonwealth shall cooperate with the Commission and, upon request, shall assist the Commission in the performance of its duties and responsibilities under this chapter.

§ 28.2-1504. Preparation of management plan.

The Commission shall prepare and implement a plan for the management of the Commonwealth's ungranted shores of the sea, marsh and meadowlands. The management plan, and any regulations and guidelines promulgated to implement the management plan, shall conserve and protect the shores of the sea, marsh and meadowlands, and the natural values and natural processes associated therewith. To the extent not inconsistent with that goal, the management plan shall also consider (i) the traditional uses of such properties, (ii) the promotion of tourism and commerce, and (iii) the use of such properties, where they have been so used in the past, as a commons by the people of the Commonwealth for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. The Commission shall review the management plan every five years.

B. In developing regulations, guidelines, or management plans under this chapter, the Commission shall consult with the Virginia Coastal Land Management Advisory Council.

§ 28.2-1505. Virginia Coastal Land Management Advisory Council established.

A. There is hereby created the Virginia Coastal Land Management Advisory Council. The Council shall advise the Commission on issues relating to the management of ungranted shores of the sea, marsh and meadowlands, and shall advise the Commission on the development of the management plan prepared pursuant to § 28.2-1504.

B. The Council shall consist of six members appointed by the Commissioner, who shall be residents of a county in which there are ungranted shores of the sea, marsh or meadowlands, and who shall represent tourism and commerce, traditional uses of shores of the sea, marsh and meadowlands, and conservation interests; however, if any private person or entity owns more than fifty percent of the land area of the barrier islands of the Eastern Shore that are privately owned, such person or entity shall be one of such members. In appointing these members, the Commissioner shall consider recommendations submitted by the boards of supervisors of counties in which the Commission is managing the largest portions of the ungranted shores of the sea, marsh or meadowlands. The Council shall also include (i) the Director of the Department of Conservation and Recreation or his designee, (ii) the Director of the Department of Game and Inland Fisheries or his designee, and (iii) the Commissioner or his designee.

C. The term of office of each member shall be for three years. Appointments to fill vacancies shall be made to fill the unexpired term.

D. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses.

E. The Council shall meet at the call of the Commissioner or a least once per year.

§ 28.2-1506. Filing of initial inventories; amended or supplemental inventories.

The initial inventories have been filed with the clerk of the circuit court and the commissioner of revenue for the counties in which the ungranted shores of the sea, marsh and meadowlands mapped therein are located. Whenever any privately owned land in any of such counties is to be transferred, and the transferor or the transferee requests clarification as to whether any portion of such land is claimed by the Commonwealth as ungranted shores of the sea, marsh or meadowlands, the Commission shall review the matter, and, if it determines that all or any portion of such land constitutes ungranted shores of the sea, marsh or meadowlands, the Commission shall file an amended or supplemental inventory as it may deem appropriate. Any such amended or supplemental inventory shall be filed in the same offices at the initial inventory for such area.

Article 3.



*Inventories of Certain Ungranted Shores of the Sea, Marsh and Meadowlands.*

§ 28.2-1507. Notice of filing of inventories.

A. The Commission shall cause to be published, within ninety days following the effective date of this section, in a newspaper of general circulation published at the state capital, in a newspaper having general circulation in the counties where the initial inventories have been filed, and in such other newspapers in the Commonwealth as the Commission generally publishes notices pursuant to subsection F of § 9-6.14:7.1, a notice of the filing of the initial inventories. The notice shall state that any person claiming ownership of an interest in lands designated in an initial inventory as ungranted shores of the sea, marsh or meadowlands is required to assert the claim as provided in § 28.2-1509 within two years following the effective date of this section, or any action to assert such claim shall be barred.

B. The Commission shall cause to be published a notice of the filing of any amended or supplemental inventory in a newspaper having general circulation in the county for which such amended or supplemental inventory applies. The notice shall refer to the initial inventory and any previous amended or supplemental inventory with respect thereto, and shall state that any person claiming ownership of an interest in lands designated therein as ungranted shores of the sea, marsh or meadowlands is required to assert the claim as provided in § 28.2-1509 within two years following the filing of the amended or supplemental inventory, or any action to assert such claim shall be barred.

C. The failure of the Commission to comply with the requirements of this section shall not impair the Commonwealth's rights of ownership in any ungranted shores of the sea, marsh, or meadowlands.

§ 28.2-1508. Effect of inventories.

The failure to include any ungranted shores of the sea, marsh or meadowlands in an initial inventory shall not affect the Commonwealth's rights of ownership in such property.

*Article 4.**Resolution of Conflicting Claims to Inventoried Property.*

§ 28.2-1509. Claims to lands designated in an inventory.

A. Any person claiming ownership of an interest in lands designated as ungranted shores of the sea, marsh or meadowland in an initial inventory, or in any amended or supplemental inventory, may bring an action for declaratory judgment to determine title to the land pursuant to § 8.01-184, an action to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment pursuant to § 8.01-131.

B. Any action pursuant to subsection A with respect to lands designated as ungranted shores of the sea, marsh or meadowland in an initial inventory shall be brought within two years following the effective date of this section. Any action to assert a claim in such land shall be barred unless brought within such two-year period.

C. Any action pursuant to subsection A with respect to lands designated as ungranted shores of the sea, marsh or meadowland in an amended or supplemental inventory shall be brought within two years following the filing of such amended or supplemental inventory. Any action to assert a claim in such lands shall be barred unless brought within such two-year period.

D. Upon entry of a final judgment ruling that any lands designated in an initial inventory, or in an amended or supplemental inventory, as ungranted shores of the sea, marsh or meadowlands are not property of the Commonwealth, the Commission shall file an amended inventory correcting its designation of such property.

§ 28.2-1510. Approval of amended or supplemental inventory.

The Commission shall not approve an amended or supplemental inventory, if such amended or supplemental inventory initially designates a parcel of land as ungranted shores of the sea, marsh or meadowlands, until notice of the Commission's intention so to do has been published once a week for two successive weeks in a newspaper having general circulation in the county where such land is located. Such notice shall specify the time and place of a public hearing at which persons affected may appear and present their views. In addition, the Commission shall give written notice of the amended or supplemental inventory, and of the public hearing, to the owner or owners of each parcel so designated, if known, by postpaid mail to the address of the owner as shown in the land records of the circuit court for the county. Nothing in this section shall be construed to invalidate any subsequently filed amended or supplemental inventory because of the inadvertent failure of the Commission to give written notice to any person listed as having an ownership interest in such land in the land records of the circuit court for the county. After the public hearing, the Commission may approve, amend, or disapprove such amended or supplemental inventory.

§ 28.2-1511. Claims to ungranted shores of the sea, marsh and meadowlands proposed for designation in amended or supplemental inventory.

A. The Commission shall not file any amended or supplemental inventory, if such amended or supplemental inventory initially designates a parcel of land as ungranted shores of the sea, marsh or meadowland, unless the Commission has approved such amended or supplemental inventory as provided

552 in § 28.2-1510. The Commission shall give notice of its intention to file such amended or supplemental  
553 inventory to any person listed as having an ownership interest in such land in the land records of the  
554 circuit court for the county. The notice shall be sent by postpaid mail to the address of the person as  
555 shown on the land book. The Commission shall also cause notice of its intent to file an amended or  
556 supplemental inventory to be published in a newspaper of general circulation in the county where such  
557 land is located.

558 B. Any person claiming ownership of an interest in lands described in a notice given pursuant to  
559 subsection A may bring an action for declaratory judgment to determine title to the land pursuant to  
560 § 8.01-184, to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment  
561 pursuant to § 8.01-131. Any such action shall be brought within two years following publication of the  
562 notice pursuant to subsection A; however, the failure of a person claiming ownership of such lands to  
563 commence an action within the two-year period as provided in this subsection shall not bar such person  
564 from asserting a claim of ownership as provided in § 28.2-1509.

565 C. If an action is not commenced within the two-year period as provided in subsection B, the  
566 Commission may file an amended or supplemental inventory designating as ungranted shores of the sea,  
567 marsh or meadowlands the parcels as to which no action has been commenced. Upon filing the  
568 amended or supplemental inventory, the Commission shall cause to be published a notice as provided in  
569 subsection B of § 28.2-1507.

570 D. If an action is commenced within the two-year period as provided in subsection B, the  
571 Commission shall not, during the pendency of the action, file an amended or supplemental inventory  
572 designating the land which is the subject of the action as ungranted shores of the sea, marsh or  
573 meadowlands. Upon the entry of a final judgment ruling that any of such land is not the property of the  
574 Commonwealth, the Commission shall correct the amended or supplemental inventory to remove any  
575 designation of such land as ungranted shores of the sea, marsh or meadowland. The Commission may  
576 then file the corrected amended or supplemental inventory. Upon the entry of a final judgment ruling  
577 that such land is the property of the Commonwealth, the Commission may file an amended or  
578 supplemental inventory designating such land as ungranted shores of the sea, marsh or meadowlands,  
579 and further such final judgment shall bar the assertion of a like claim in any action brought to assert  
580 ownership of such land pursuant to § 28.2-1509. Upon filing an amended or supplemental inventory, the  
581 Commission shall cause to be published the notice as provided in subsection B of § 28.2-1507.

582 § 28.2-1512. Effect of disability.

583 The provisions of § 8.01-237 shall apply with respect to the effect of disabilities on the preservation  
584 of a right to bring an action to establish ownership of land pursuant to §§ 28.2-1509 and 28.2-1511.

585 § 28.2-1513. Filing of notice of lis pendens.

586 The Commissioner is authorized to record a notice of lis pendens in order to provide notice of the  
587 Commonwealth's claim of ownership of any property designated in an initial inventory, or in an  
588 amended or supplemental inventory, as ungranted shores of the sea, marsh or meadowland. The notice  
589 shall set forth the name of any person who has, or has asserted, an interest in the property, a  
590 description of the property, and a statement that the Commission has determined that the property is  
591 ungranted shores of the sea, marsh, or meadowland and is designated as such on a filed inventory. The  
592 notice shall be admitted to record in the clerk's office of the county wherein the property is located.

593 § 41.1-3. Grants of certain lands, etc., to be void; such lands, etc., under control of Governor.

594 No grant shall be valid or effectual in law to pass any estate or interest in (i) any lands  
595 unappropriated or belonging to the Commonwealth, which embrace the old magazine at Westham, or  
596 any stone quarry now worked by the Commonwealth, or any lands which are within a mile of such  
597 magazine, or any such quarry; (ii) any ~~lands which are a common~~ *ungranted beds of bays, rivers and*  
598 *creeks* under § 28.2-1200; (iii) any natural oyster bed, rock, or shoal, whether such bed, rock, or shoal  
599 shall ebb bare or not; (iv) any islands created in the navigable waters of the Commonwealth through the  
600 instrumentality of dredging or filling operations; ~~or~~ (v) any islands which rise from any ~~beds~~ *lands*  
601 *which are a common property of the Commonwealth* under ~~§ 28.2-1200~~ *§ 28.2-1201*; or (vi) any ungranted  
602 *shores of the sea, marsh or meadowlands as defined in § 28.2-1500*. Every such grant for any such  
603 lands, islands, bed, rock, or shoal shall be absolutely void; however, this section shall not be construed  
604 to affect the title to grants issued prior to March 15, 1932. Such magazine and every such stone quarry  
605 and the lands of the Commonwealth adjacent to or in their neighborhood, shall be under the control of  
606 the Governor, who may make such regulations concerning the same as he may deem best for the  
607 interests of the Commonwealth.

608 § 41.1-5. Circuit courts authorized to dispose of waste and unappropriated lands.

609 The circuit courts of the counties and cities in which waste and unappropriated lands are alleged to  
610 lie are vested with authority to sell and dispose thereof in proceedings brought under §§ 41.1-16 through  
611 41.1-20; however, no sale or disposition shall be made of lands mentioned in § 28.2-1200 or of lands as  
612 to which a grant could not have been issued by the State Librarian under §§ 41.1-3, ~~41.1-4, or~~  
613 ~~§ 41.1-4.1.~~

§ 41.1-16. Sale of wastelands; proceeding by citizen resident; motion and deposit for costs; parties; copy of plat.

Any citizen, resident of this Commonwealth, who has reason to believe that there are waste and unappropriated lands in this Commonwealth (not being a common under ~~§ 28.2-1200~~ or excluded under §§ 41.1-3 and 41.1-4 from grant), shall have the right to file a proceeding in the name of the county or city seeking the sale and disposition of such land. The venue for such a proceeding shall be as specified in subdivision 3 of § 8.01-261. The proceeding shall be instituted by motion signed by the party who institutes the proceeding, or on his behalf, and shall be accompanied with a deposit to cover the costs of the proceeding but in no event to exceed \$100. Each landowner adjoining the tract in question shall be made a party to the proceedings.

He shall file with the motion a copy of a plat prepared by a licensed land surveyor giving the metes and bounds of the land alleged to be waste and unappropriated. A copy of the motion and plat shall be served upon each of the landowners adjoining the tract in question.

**2. That § 41.1-4 of the Code of Virginia is repealed.**