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HOUSE BILL NO. 1464

Offered January 19, 2024

A *BILL to amend and reenact §§ 10.1-1010 and 10.1-1701 of the Code of Virginia, relating to validity of conservation easements; open-space land; public body.*

Patron—Wiley

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1010 and 10.1-1701 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1010. Creation, acceptance and duration.

A. A holder may acquire a conservation easement by gift, purchase, devise or bequest.

B. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

C. A conservation easement shall be perpetual in duration unless the instrument creating it otherwise provides a specific time. For all easements, the holder shall (i) meet the criteria in § 10.1-1009 and (ii) either have had a principal office in the Commonwealth for at least five years, or be a national organization in existence for at least five years which has an office in the Commonwealth and has registered and is in good standing with the State Corporation Commission. Until a holder has met these requirements, the holder may co-hold a conservation easement with another holder that meets the requirements.

D. An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it in writing.

E. No conservation easement shall be valid and enforceable unless *the public body to hold the easement has determined* the limitations or obligations created thereby conform in all respects to the comprehensive plan at the time the easement is granted for the area in which the real property is located.

F. This chapter does not affect the power of the court to modify or terminate a conservation easement in accordance with the principles of law and equity, or in any way limit the power of eminent domain as possessed by any public body. In any such proceeding the holder of the conservation easement shall be compensated for the value of the easement.

§ 10.1-1701. Authority of public bodies to acquire or designate property for use as open-space land.

To carry out the purposes of this chapter, any public body may (i) acquire by purchase, gift, devise, bequest, grant or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land and (ii) designate any real property in which it has an interest of not less than five years' duration to be retained and used for the preservation and provision of open-space land. Any such interest may also be perpetual.

The use of the real property for open-space land shall *be determined by the public body acquiring such land* to conform to the official comprehensive plan for the area in which the property is located. No property or interest therein shall be acquired by eminent domain by any public body for the purposes of this chapter; however, this provision shall not limit the power of eminent domain as it was possessed by any public body prior to the passage of this chapter.

INTRODUCED

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