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HOUSE BILL NO. 878

Offered January 10, 2024

Prefiled January 9, 2024

A *BILL* to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.4, consisting of sections numbered 15.2-2441 through 15.2-2445, relating to purchase of development rights for affordable housing.

Patrons—Bulova, Lopez and Bennett-Parker

Referred to Committee on Subcommittee #2

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 24.4, consisting of sections numbered 15.2-2441 through 15.2-2445, as follows:

CHAPTER 24.4.

PURCHASE OF DEVELOPMENT RIGHTS FOR AFFORDABLE HOUSING.

§ 15.2-2441. Definitions.

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

"Affordable housing" means the same as that term is defined in § 15.2-2201.

"Purchase of development rights" means the (i) purchase of development rights from an owner of real property by a local government or (ii) voluntary donation of development rights by an owner of real property to a local government.

§ 15.2-2442. Authority of local governments to acquire or designate property for affordable housing.

To carry out the purposes of this chapter, any local government 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 and provision of affordable housing 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 affordable housing.

The use of the real property for affordable housing shall conform to the comprehensive plan for the area in which the property is located. No property or interest therein shall be acquired by eminent domain by any locality for the purposes of this chapter; however, this provision shall not limit the power of eminent domain as it was possessed by any locality prior to the passage of this chapter.

§ 15.2-2443. Further powers of local governments.

A. A local government shall have the powers necessary or convenient to purchase development rights, including the following powers:

1. To borrow funds and make expenditures;

2. To advance or accept advances of public funds;

3. To apply for and accept and utilize grants and any other assistance from the federal government and any other public or private sources, to give such security as may be required and to enter into and carry out contracts or agreements in connection with the assistance, and to include in any contract for assistance from the federal government such conditions imposed pursuant to federal laws as the local government may deem reasonable and appropriate and that are not inconsistent with the purposes of this chapter;

4. To make and execute contracts and other instruments;

5. In connection with the affordable housing acquired and designated for the purposes of this chapter, to provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person or agency, public or private, of services, privileges, public utilities, or other facilities or structures that may be necessary to the provision, preservation, maintenance, and management of the property as affordable housing; and

6. To insure or provide for the insurance of any real or personal property or operations of the local government against any risks or hazards, including the power to pay premiums on the insurance.

B. For the purposes of this chapter, a local government may (i) appropriate funds; (ii) exercise its powers under this chapter through a board or commission, or through such office or officers as its governing body determines; and (iii) levy taxes and assessments.

§ 15.2-2444. Diversion of property from affordable housing; conveyance or lease of affordable housing property.

A. No real property, the title to or interest or right in which has been acquired under this chapter and that has been designated as affordable housing under the authority of this chapter, shall be converted or diverted from affordable housing unless:

1. The conversion or diversion is determined by the local government to be (i) essential to the orderly

59 *development and growth of the locality and (ii) in accordance with the comprehensive plan for the locality in*
60 *effect at the time of conversion or diversion; and*

61 *2. There is substituted other real property that is (i) of greater value as affordable housing than the real*
62 *property converted or diverted and (ii) of as nearly as feasible equivalent usefulness and location for use as*
63 *affordable housing as is the real property converted or diverted. The local government shall assure that the*
64 *real property substituted will be subject to the provisions of this chapter.*

65 *B. A local government may convey or lease any affordable housing it has acquired and that has been*
66 *designated for the purposes of this chapter. The conveyance or lease shall be subject to contractual*
67 *arrangements that will preserve the real property as affordable housing, unless the real property is to be*
68 *converted or diverted from affordable housing in accordance with the provisions of subsection A.*

69 **§ 15.2-2445. Chapter controlling over other laws; powers supplemental.**

70 *Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the*
71 *provisions of this chapter shall be controlling. The powers conferred by this chapter shall be in addition and*
72 *supplemental to the powers conferred by any other law.*