

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 10.1-603.24 and 10.1-603.25 of the Code of Virginia, relating to Virginia*
 3 *Community Flood Preparedness Fund; loan and grant program; eligible recipients; federally recognized*
 4 *tribes and Virginia recognized tribes.*

5 [S 1335]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That §§ 10.1-603.24 and 10.1-603.25 of the Code of Virginia are amended and reenacted as follows:**9 **§ 10.1-603.24. Definitions.**

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

11 "Authority" means the Virginia Resources Authority.

12 "Cost," as applied to any project financed under the provisions of this article, means the total of all costs
 13 incurred by the local government, *federally recognized tribe, or Virginia recognized tribe* as reasonable and
 14 necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any
 15 project.

16 "Department" means the Virginia Department of Conservation and Recreation.

17 "Flood prevention or protection" means the construction of hazard mitigation projects, acquisition of land,
 18 or implementation of land use controls that reduce or mitigate damage from coastal or riverine flooding.19 "Flood prevention or protection study" means the conduct of a hydraulic or hydrologic study of a flood
 20 plain with historic and predicted floods, the assessment of flood risk, and the development of strategies to
 21 prevent or mitigate damage from coastal or riverine flooding.

22 "Fund" means the Virginia Community Flood Preparedness Fund created pursuant to § 10.1-603.25.

23 "Local government" means any county, city, town, municipal corporation, authority, district, commission,
 24 or political subdivision created by the General Assembly or pursuant to the Constitution of Virginia or laws
 25 of the Commonwealth.26 "Low-income geographic area" means any locality, or community within a locality, that has a median
 27 household income that is not greater than 80 percent of the local median household income, or any area in the
 28 Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his
 29 delegation of authority to the Internal Revenue Service.30 "Nature-based solution" means an approach that reduces the impacts of flood and storm events through
 31 the use of environmental processes and natural systems. A nature-based solution may provide additional
 32 benefits beyond flood control, including recreational opportunities and improved water quality.33 **§ 10.1-603.25. Virginia Community Flood Preparedness Fund; loan and grant program.**34 A. The Virginia Community Flood Preparedness Fund is hereby established as a permanent and perpetual
 35 fund. All sums that are designated for deposit in the Fund from revenue generated by the sale of emissions
 36 allowances pursuant to subdivision C 1 of § 10.1-1330, all sums that may be appropriated to the Fund by the
 37 General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments,
 38 *federally recognized tribes, and Virginia recognized tribes*, all income from the investment of moneys held in
 39 the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including
 40 any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible
 41 for deposit in the Fund under federal law, shall be designated for deposit to the Fund. Interest earned on
 42 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
 43 including any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal
 44 year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this
 45 article shall be deemed to promote the public purposes of enhancing flood prevention or protection and
 46 coastal resilience.47 B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection
 48 and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish
 49 interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum
 50 of agreement with the Department. The Authority may disburse from the Fund its reasonable costs and
 51 expenses incurred in the management of the Fund. The Department shall direct distribution of loans and
 52 grants from the Fund in accordance with the provisions of subsection D.53 C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the
 54 Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held
 55 in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as
 56 defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the

57 provisions of this article. In addition, the Authority is authorized at any time and from time to time to sell
58 upon such terms and conditions as the Authority deems appropriate any loan or interest thereon made
59 pursuant to this article. The net proceeds of the sale remaining after payment of costs and expenses shall be
60 designated for deposit to, and become part of, the Fund.

61 D. 1. The Fund shall be administered by the Department as prescribed in this article. The Department, in
62 consultation with the Secretary of Natural and Historic Resources and the Chief Resilience Officer of the
63 Commonwealth, shall establish guidelines regarding the distribution and prioritization of loans and grants,
64 including loans and grants that support flood prevention or protection studies of statewide or regional
65 significance. The Department shall develop and provide an opportunity for a 30-day public comment period
66 prior to each new grant or loan offering to solicit feedback on proposed revisions to the Virginia Community
67 Flood Preparedness Manual. A record of each application for a grant or loan and the action taken thereon
68 shall be available for public inspection at the office of the Department and on a publicly accessible website.

69 2. The Director shall convene an Advisory Review Committee (the Committee) to assist in the distribution
70 of loans and grants from the Fund. The Committee shall review applications to the Fund and make
71 recommendations on the disbursement of moneys from the Fund and any other appropriate issues to the
72 Department, the Secretary of Natural and Historic Resources, and the Chief Resilience Officer of the
73 Commonwealth. The Committee shall include representatives from the Department of Emergency
74 Management, the Department of Environmental Quality, the Department of Housing and Community
75 Development, a nonprofit group engaged in resilience efforts, the agriculture industry, the manufacturing
76 industry, and the business community, the Virginia Director of the Chesapeake Bay Commission, and others
77 as the Director deems appropriate. Appointed members of the Committee shall serve without compensation.

78 E. Localities, *federally recognized tribes*, and *Virginia recognized tribes* shall use moneys from the Fund
79 primarily for the purpose of implementing flood prevention and protection projects and studies in areas that
80 are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund
81 may be used to mitigate future flood damage and to assist inland and coastal communities across the
82 Commonwealth that are subject to recurrent or repetitive flooding. No less than 25 percent of the moneys
83 disbursed from the Fund each year shall be used for projects in low-income geographic areas. Priority shall
84 be given to projects that implement community-scale hazard mitigation activities that use nature-based
85 solutions to reduce flood risk.

86 F. Any locality, *federally recognized tribe*, or *Virginia recognized tribe* is authorized to secure a loan
87 made pursuant to this section by placing a lien up to the value of the loan against any property that benefits
88 from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for
89 which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to
90 the prior lienholder in its sole and exclusive discretion, that is recorded in the land records where the property
91 is located.

92 G. Any locality, *federally recognized tribe*, or *Virginia recognized tribe* using moneys in the Fund to
93 provide a loan for a project in a low-income geographic area is authorized to forgive the principal of such
94 loan. If a locality, *federally recognized tribe*, or *Virginia recognized tribe* forgives the principal of any such
95 loan, any obligation of the locality, *federally recognized tribe*, or *Virginia recognized tribe* to repay that
96 principal to the Commonwealth shall not be forgiven and such obligation shall remain in full force and effect.
97 The total amount of loans forgiven by all localities, *federally recognized tribes*, and *Virginia recognized*
98 *tribes* in a fiscal year shall not exceed 30 percent of the amount appropriated in such fiscal year to the Fund
99 by the General Assembly.