

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

[H 2077]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.24 and 10.1-603.25 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.24. Definitions.

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

"Authority" means the Virginia Resources Authority.

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

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

"Flood prevention or protection" means the construction of hazard mitigation projects, acquisition of land, or implementation of land use controls that reduce or mitigate damage from coastal or riverine flooding.

"Flood prevention or protection study" means the conduct of a hydraulic or hydrologic study of a flood plain with historic and predicted floods, the assessment of flood risk, and the development of strategies to prevent or mitigate damage from coastal or riverine flooding.

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

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution of Virginia or laws of the Commonwealth.

"Low-income geographic area" means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household income, or any area in the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Nature-based solution" means an approach that reduces the impacts of flood and storm events through the use of environmental processes and natural systems. A nature-based solution may provide additional benefits beyond flood control, including recreational opportunities and improved water quality.

§ 10.1-603.25. Virginia Community Flood Preparedness Fund; loan and grant program.

A. The Virginia Community Flood Preparedness Fund is hereby established as a permanent and perpetual fund. All sums that are designated for deposit in the Fund from revenue generated by the sale of emissions allowances pursuant to subdivision C 1 of § 10.1-1330, all sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments, *federally recognized tribes*, and *Virginia recognized tribes*, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law, shall be designated for deposit to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this article shall be deemed to promote the public purposes of enhancing flood prevention or protection and coastal resilience.

B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum of agreement with the Department. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund. The Department shall direct distribution of loans and grants from the Fund in accordance with the provisions of subsection D.

C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the

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

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

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

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

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

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