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1 **HOUSE BILL NO. 1122**

2 Offered January 14, 2026

3 Prefiled January 14, 2026

4 *A BILL to amend and reenact § 15.2-2307 of the Code of Virginia, relating to vested rights.*

5 Patron—Reid

6 Committee Referral Pending

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:**9 **§ 15.2-2307. Vested rights not impaired; nonconforming uses.**10 A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without
11 limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use,
12 *including the affirmative entitlement to develop a specific project as authorized by an approved zoning action*
13 *or decision, and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when*
14 *the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in*
15 *effect allowing that authorizes development of a the landowner's property consistent with the specific project*
16 *and the essential characteristics thereof, (ii) relies in good faith on the significant affirmative governmental*
17 *act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in*
18 *reliance on the significant affirmative governmental act.*19 *For purposes of this subsection, vesting in a land use includes, and rights vest to, the development of a*
20 *specific project as contemplated by and consistent with the significant affirmative governmental act and any*
21 *related approvals, conditions, plans, or application materials accepted or approved by the locality, including*
22 *the right to make minor modifications to such approvals that substantially conform to and do not materially*
23 *alter the character of the development contemplated by the significant affirmative governmental act. Such*
24 *vested right encompasses the project's essential characteristics, including its use, density or intensity,*
25 *building massing and height, site layout and configuration, phasing, accessory and ancillary uses, required*
26 *site improvements and infrastructure, and design parameters to the extent reasonably shown or described in*
27 *the granting documents or approvals.*28 B. For purposes of this section and without limitation, the following are deemed to be significant
29 affirmative governmental acts allowing development of a specific project: (i) the governing body has
30 accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing
31 body has approved an application for a rezoning for a specific use or density; (iii) the governing body or
32 board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of
33 zoning appeals has approved a variance; (v) the designated agent has approved a preliminary subdivision plat,
34 site plan or plan of development for the landowner's property and the applicant diligently pursues approval of
35 the final plat or plan within a reasonable period of time under the circumstances; (vi) the designated agent has
36 approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the
37 zoning administrator or other administrative officer has issued a written order, requirement, decision or
38 determination regarding the permissibility of a specific use or density of the landowner's property that is no
39 longer subject to appeal and no longer subject to change, modification or reversal under subsection C of
40 § 15.2-2311.41 C. 1. Once vested, uncompleted projects are governed by the ordinances and regulations in effect at the
42 time of approval. A proposed material change to a project, including (i) an increase in density, floor area
43 ratio, or number of dwelling units by more than 10 percent above that originally approved; (ii) a change in
44 use to a more intensive use; (iii) an increase in building height beyond approved limits; (iv) relocation of
45 major ingress or egress affecting external traffic circulation; or (v) an increase in stormwater runoff or
46 utility demand beyond approved system capacity, may require the project to obtain new approval from the
47 locality. A proposed nonmaterial change to a project, including (a) minor adjustments in building footprint,
48 lot lines, or internal circulation; (b) shifts in road alignment within an approved right-of-way; (c) stormwater
49 or utility updates required by state or federal law, provided overall capacity is not exceeded or is decreased;
50 (d) architectural or design modifications not affecting density, height, or use; or (e) phasing or sequencing
51 changes within the same approved scope, shall not require the project to obtain a new approval from the
52 locality. Within 14 days of submission of a proposed change, a zoning administrator shall issue a written
53 determination whether the proposed change is material or nonmaterial.54 2. If a zoning administrator determines that a proposed change is material, an applicant may appeal the
55 decision pursuant to § 15.2-2311 or, in the case of proffered conditions, § 15.2-2301. The circuit court shall
56 hear such appeals on an expedited basis, which, for purposes of this section, means that the matter shall be

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59 placed on the court's docket for hearing within 45 days of filing, unless the parties agree to a later date, and
60 that the court shall issue a decision within 30 days of the hearing.

61 3. If a zoning administrator determines that a proposed change is nonmaterial, that decision shall be
62 binding and enforceable.

63 4. Vested rights under this section shall be deemed enforceable for purposes of securing financing or
64 contractual agreements. If a locality is found to have impaired such rights in violation of this section, an
65 applicant or landowner shall be entitled to recover reasonable attorney fees, court costs, and actual damages
66 incurred as a direct result of the locality's unlawful action.

67 A. D. If a landowner's rights are vested in a land use under this section, such use shall not be rendered
68 nonconforming by subsequent ordinance changes, except where the General Assembly explicitly authorizes
69 retroactive application of new standards to protect public health and safety. In such cases, a zoning
70 ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the
71 zoning prescribed for the district in which they are situated may be continued only so long as the then
72 existing or a more restricted use continues and such use is not discontinued for more than two years, and so
73 long as the buildings or structures are maintained in their then structural condition; and that the uses of such
74 buildings or structures shall conform to such regulations whenever, with respect to the building or structure,
75 the square footage of a building or structure is enlarged, or the building or structure is structurally altered as
76 provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to the zoning
77 prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality
78 for such use and (ii) the holder of such business license has operated continuously in the same location for at
79 least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such
80 business license to apply for a rezoning or a special use permit without charge by the locality or any agency
81 affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may provide that
82 no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on
83 the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

84 D. E. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a
85 building permit, the building or structure was thereafter constructed in accordance with the building permit,
86 and upon completion of construction, the local government issued a certificate of occupancy or a use permit
87 therefor, (ii) a property owner, relying in good faith on the issuance of a building permit, incurs extensive
88 obligations or substantial expenses in diligent pursuit of a building project that is in conformance with the
89 building permit and the Uniform Statewide Building Code (§ 36-97 et seq.), or (iii) the owner of the building
90 or structure has paid taxes to the locality for such building or structure for a period of more than the previous
91 15 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal
92 solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance
93 may provide that such building or structure be brought in compliance with the Uniform Statewide Building
94 Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the local
95 government has issued a permit, other than a building permit, that authorized construction of an
96 improvement to real property and the improvement was thereafter constructed in accordance with such
97 permit, the ordinance may provide that the improvements are nonconforming, but not illegal. If the structure
98 is one that requires no permit, and an authorized local government official informs the property owner that
99 the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a
100 zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is
101 illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized
102 government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral
103 statement of such official shall not be sufficient evidence to prove that the authorized government official
104 made such statement.

105 E. F. A zoning ordinance shall permit the owner of any residential or commercial building damaged or
106 destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or
107 reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in
108 § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced
109 except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner
110 shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in
111 compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done
112 to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain
113 regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such
114 building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God,
115 such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning
116 ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster
117 declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to
118 the declaration, then the zoning ordinance shall provide for an additional two years for the building to be
119 repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of
120 God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high

121 water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this
122 section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if
123 it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit
124 an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

125 *F.* Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to
126 replace an existing on-site sewage system for any existing building in the same general location on the
127 property even if a new on-site sewage system would not otherwise be permitted in that location, unless access
128 to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then
129 the connection to such system shall be required. Any new on-site system shall be installed in compliance with
130 applicable regulations of the Department of Health in effect at the time of the installation.

131 *G.* Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to
132 notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For
133 purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected
134 has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that
135 following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the
136 owner of the property on which the sign is located, if notified by the locality to do so. If, following such
137 two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through
138 its own agents or employees may enter the property upon which the sign is located and remove any such sign
139 whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the
140 property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an
141 order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or
142 other appropriate remedy.

143 *H.* *I.* Nothing in this section shall be construed to prevent the land owner or home owner from removing a
144 valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home
145 with another comparable manufactured home that meets the current HUD manufactured housing code. In
146 such mobile or manufactured home park, a single-section home may replace a single-section home and a
147 multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or
148 manufactured home not located in a mobile or manufactured home park may replace that home with a newer
149 manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.
150 Any such replacement home shall retain the valid nonconforming status of the prior home.