VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 10.1-603.25 of the Code of Virginia, relating to Virginia Community Flood Preparedness Fund; loan and grant program; deferment of interest accrual and repayment obligations.

[S 197]

Approved

Be it enacted by the General Assembly of Virginia:

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

§ 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. *For funds disbursed under subsection E, interest on loans shall not accrue and repayment obligations shall not come into effect for loans or grants until completion or cancellation of the project or study for which such funds are disbursed.* 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.