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HOUSE BILL NO. 1122

Offered January 14, 2026

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

Patron—Reid

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-2307. Vested rights not impaired; nonconforming uses.**

A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use, including the affirmative entitlement to develop a specific project as authorized by an approved zoning action or decision, and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect ~~allowing~~ that authorizes development of ~~a~~ the landowner's property consistent with the specific project and the essential characteristics thereof, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

For purposes of this subsection, vesting in a land use includes, and rights vest to, the development of a specific project as contemplated by and consistent with the significant affirmative governmental act and any related approvals, conditions, plans, or application materials accepted or approved by the locality, including the right to make minor modifications to such approvals that substantially conform to and do not materially alter the character of the development contemplated by the significant affirmative governmental act. Such vested right encompasses the project's essential characteristics, including its use, density or intensity, building massing and height, site layout and configuration, phasing, accessory and ancillary uses, required site improvements and infrastructure, and design parameters to the extent reasonably shown or described in the granting documents or approvals.

B. For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; (vi) the designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

C. 1. Once vested, uncompleted projects are governed by the ordinances and regulations in effect at the time of approval. A proposed material change to a project, including (i) an increase in density, floor area ratio, or number of dwelling units by more than 10 percent above that originally approved; (ii) a change in use to a more intensive use; (iii) an increase in building height beyond approved limits; (iv) relocation of major ingress or egress affecting external traffic circulation; or (v) an increase in stormwater runoff or utility demand beyond approved system capacity, may require the project to obtain new approval from the locality. A proposed nonmaterial change to a project, including (a) minor adjustments in building footprint, lot lines, or internal circulation; (b) shifts in road alignment within an approved right-of-way; (c) stormwater or utility updates required by state or federal law, provided overall capacity is not exceeded or is decreased; (d) architectural or design modifications not affecting density, height, or use; or (e) phasing or sequencing changes within the same approved scope, shall not require the project to obtain a new approval from the locality. Within 14 days of submission of a proposed change, a zoning administrator shall issue a written determination whether the proposed change is material or nonmaterial.

2. If a zoning administrator determines that a proposed change is material, an applicant may appeal the decision pursuant to § 15.2-2311 or, in the case of proffered conditions, § 15.2-2301. The circuit court shall hear such appeals on an expedited basis, which, for purposes of this section, means that the matter shall be placed on the court's docket for hearing within 45 days of filing, unless the parties agree to a later date, and

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HB1122

that the court shall issue a decision within 30 days of the hearing.

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

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

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

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

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

121 section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if
122 it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit
123 an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

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

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

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