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HOUSE BILL NO. 134

Offered January 14, 2026

A BILL to amend and reenact §§ 10.1-1009 and 10.1-1010 of the Code of Virginia, relating to Virginia Conservation Easement Act; definitions; federally recognized tribes.

Patrons—Simon, Krizek, Simonds and Fowler

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1009 and 10.1-1010 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1009. Definitions.

As used in this chapter, unless the context otherwise requires:

"Conservation easement" means a nonpossessory interest of a holder in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the *cultural*, historical, architectural, or archaeological aspects of real property.

"Federally recognized tribe" means an American Indian tribe within the present-day external boundaries of the Commonwealth that is formally acknowledged by the Commonwealth to exist as a tribe as reported by the Secretary of the Commonwealth pursuant to § 2.2-401.01 and that is recognized by the U.S. Secretary of the Interior to exist as a tribe under the federal Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. § 5131).

"Holder" means (i) a charitable corporation, charitable association, or charitable trust ~~which~~ that has been declared exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and the primary purposes or powers of which include: ~~(i)~~ (a) retaining or protecting the natural or open-space values of real property; ~~(ii)~~ (b) assuring the availability of real property for agricultural, forestal, recreational, or open-space use; ~~(iii)~~ (c) protecting natural resources; ~~(iv)~~ (d) maintaining or enhancing air or water quality; or ~~(v)~~ (e) preserving the historic, architectural, or archaeological aspects of real property or (ii) a federally recognized tribe.

"Public body" means any entity defined in § 10.1-1700.

"Third party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, *federally recognized tribe*, charitable corporation, charitable association, or charitable trust ~~which~~ that, although eligible to be a holder, is not a holder.

§ 10.1-1010. Creation, acceptance and duration.

A. A holder may acquire a conservation easement by gift, purchase, devise or bequest.

B. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

C. A conservation easement shall be perpetual in duration unless the instrument creating it otherwise provides a specific time. For all easements, ~~the~~ a holder that is not a *federally recognized tribe* shall ~~(i)~~ meet the criteria in ~~§ 10.1-1009 and~~ (ii) either (i) have had a principal office in the Commonwealth for at least five years; or (ii) be a national organization in existence for at least five years ~~which~~ that has an office in the Commonwealth and has registered and is in good standing with the State Corporation Commission. Until a holder that is not a *federally recognized tribe* has met these requirements, the holder may co-hold a conservation easement with another holder that is a *federally recognized tribe* or that meets the requirements.

D. An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it in writing.

E. No conservation easement shall be valid and enforceable unless the limitations or obligations created thereby conform in all respects to the comprehensive plan at the time the easement is granted for the area in which the real property is located.

F. This chapter does not affect the power of the court to modify or terminate a conservation easement in accordance with the principles of law and equity, or in any way limit the power of eminent domain as possessed by any public body. In any such proceeding the holder of the conservation easement shall be compensated for the value of the easement.