

HOUSE BILL NO. 914

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Shin)

A BILL to amend and reenact § 15.2-2306 of the Code of Virginia, relating to local historic districts; tax incentives.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2306 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2306. Preservation of historical sites and architectural areas.**

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 ) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.). The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered

27 or restored within any such district unless approved by the review board or, on appeal, by the governing  
28 body of the locality as being architecturally compatible with the historic landmarks, buildings or structures  
29 therein.

30 2. Subject to the provisions of subdivision 3 the governing body may provide in the ordinance that  
31 no historic landmark, building or structure within any district shall be razed, demolished or moved until  
32 the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing  
33 body after consultation with the review board.

34 3. The governing body shall provide by ordinance for appeals to the circuit court for such locality  
35 from any final decision of the governing body pursuant to subdivisions 1 and 2 and shall specify therein  
36 the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court  
37 for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body,  
38 provided the petition is filed within 30 days after the final decision is rendered by the governing body.  
39 The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal  
40 to the court, except that the filing of the petition shall not stay the decision of the governing body if the  
41 decision denies the right to raze or demolish a historic landmark, building or structure. The court may  
42 reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the  
43 decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse  
44 of discretion, or it may affirm the decision of the governing body.

45 In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building  
46 or structure, the razing or demolition of which is subject to the provisions of subdivision 2, shall, as a  
47 matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he  
48 has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the  
49 same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona  
50 fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to  
51 any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof,  
52 which gives reasonable assurance that it is willing to preserve and restore the landmark, building or  
53 structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto,

54 shall have been executed for the sale of any such landmark, building or structure, and the land pertaining  
55 thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter  
56 contained. Any appeal which may be taken to the court from the decision of the governing body, whether  
57 instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated  
58 relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona  
59 fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision  
60 by the governing body, but thereafter the owner may renew his request to the governing body to approve  
61 the razing or demolition of the historic landmark, building or structure. The time schedule for offers to  
62 sell shall be as follows: three months when the offering price is less than \$25,000; four months when the  
63 offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000  
64 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than  
65 \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and 12 months  
66 when the offering price is \$90,000 or more.

67 4. The governing body is authorized to acquire in any legal manner any historic area, landmark,  
68 building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the  
69 governing body should be acquired, preserved and maintained for the use, observation, education, pleasure  
70 and welfare of the people; provide for their renovation, preservation, maintenance, management and  
71 control as places of historic interest by a department of the locality or by a board, commission or agency  
72 specially established by ordinance for the purpose; charge or authorize the charging of compensation for  
73 the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance,  
74 any such area, property, lands or estate or interest therein so acquired upon the condition that the historic  
75 character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter  
76 into contracts with any person, firm or corporation for the management, preservation, maintenance or  
77 operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so  
78 acquired as a place of historic interest; however, the locality shall not use the right of condemnation under  
79 this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto,  
80 or estate or interest therein is about to be destroyed.

81           The authority to enter into contracts with any person, firm or corporation as stated above may  
82 include the creation, by ordinance, of a resident curator program such that private entities through lease  
83 or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside  
84 in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts  
85 entered into under this provision shall require that all maintenance and improvement be conducted in  
86 accordance with established treatment standards for historic landmarks, areas, buildings, and structures.  
87 For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or  
88 areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare  
89 of the people as stated above so long as the lease or contract provides for reasonable public access  
90 consistent with the property's nature and use. The Department of Historic Resources shall provide  
91 technical assistance to local governments, at their request, to assist in developing resident curator  
92 programs.

93           B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no  
94 approval of any governmental agency or review board shall be required for the construction of a ramp to  
95 serve individuals with disabilities at any structure designated pursuant to the provisions of this section.

96           C. Any locality that establishes or expands a local historic district pursuant to this section shall  
97 identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion  
98 within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic  
99 district, the locality shall (i) provide for public input from the community and affected property owners in  
100 accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should  
101 be included within a local historic district; and (iii) review the inventory and the criteria to determine  
102 which properties in the areas being considered for inclusion within the proposed district meet the criteria  
103 to be included in a local historic district. Local historic district boundaries may be adjusted to exclude  
104 properties along the perimeter that do not meet the criteria. The locality shall include only the geographical  
105 areas in a local historic district where a majority of the properties meet the criteria established by the  
106 locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways  
107 found by the governing body to be significant routes of tourist access to the locality or to designated

108 historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included  
109 in a local historic district notwithstanding the provisions of this subsection.

110 D. Any locality utilizing the urban county executive form of government may include a provision  
111 in any ordinance adopted pursuant to this section that would allow public access to any such historic area,  
112 landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur  
113 within any historic district unless approved by the review board or, on appeal, by the governing body of  
114 the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures  
115 therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a  
116 national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or  
117 Virginia Outdoors Foundation granted on or after January 1, 1973.

118 E. A locality that establishes a local historic district pursuant to this section may provide tax  
119 incentives for the conservation and renovation of historic structures in such district. Such incentives may  
120 include tax rebates to the extent allowed by the Constitution of Virginia. For the purposes of this section,  
121 "historic structure" means a structure designated as having an important historic, architectural,  
122 archaeological, or cultural interest or designated as a contributing structure by an ordinance passed  
123 pursuant to subsection A.

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