

VOLUNTARY SETTLEMENTS OF ANNEXATION, TRANSITION, OR IMMUNITY ISSUES
ARTICLE 2, CHAPTER 34, TITLE 15.2
(Incorporates changes through 2015 General Assembly session)

I. Eligibility

This chapter authorizes any city, county or town to enter into an arrangement with any other locality to settle matters related to boundary change and governmental transition issues, as well as other interlocal concerns.

II. Basis for Agreement

(Sec. 15.2-3400, Code of Va.)

- A. Agreements between local governments to modify or waive any of the rights with respect to the following actions:
1. Municipal boundary change. (Chapter 32, Code of Va.)
 2. County immunity from annexation. (Chapter 33, Code of Va.)
 3. Incorporation of a town. (Chapter 36, Code of Va.)
 4. Transition of a town to city status. (Chapter 38, Code of Va.)
 5. Transition of a county to city status. (Chapter 39, Code of Va.)
 6. Transition of a city to town status. (Chapter 41, Code of Va.)
- B. The agreement may also include provisions with respect to any of the following:
1. Fiscal arrangements.
 2. Land use, zoning, and/or subdivision arrangements.
 3. Revenue or economic growth sharing.
 4. Acceptance of cash proffers on behalf of another locality.
 5. Boundary line adjustments.
 6. Acquisition of real property and buildings.
 7. Joint exercise of powers.
 8. Opposition to citizen-initiated annexations instituted pursuant to Section 15.2-3203, Code of Virginia.

9. Other provisions the parties deem to be in their best interest.

III. Procedure for Initiating Action

(Sec. 15.2-3400, Code of Va.)

Once the terms of the agreement have been negotiated by the local governing bodies, the proposed settlement must be submitted to the Commission on Local Government for review.

IV. Proceedings of the Commission on Local Government

(Sec. 15.2-2907 (A), Code of Va.)

- A. The Commission will hold oral presentations and conduct an advertised public hearing to afford all interested parties an opportunity to present evidence and to offer comment on the proposed agreement.
- B. At the conclusion of its review, the Commission will submit a report containing its findings and recommendations to the local governments and to the special three-judge court which must review the proposed agreement. The Commission's report is advisory in nature and is not binding on the affected local governments or on the special three-judge court.

V. Criteria for Review

In its review the Commission must consider whether the proposed agreement is "in the best interest of the Commonwealth," which also encompasses the best interest of the affected localities.

VI. Action by the Local Governing Bodies

(Sec. 15.2-3400, Code of Va.)

- A. Following the completion of the Commission's review, the local governing bodies may, by ordinance, adopt the agreement subsequent to an advertised public hearing.
- B. The agreement adopted by the local governing bodies can be either the proposed settlement originally submitted to the Commission or a version amended by the parties subsequent to the Commission's review.
- C. Substantive amendments to the agreement not previously analyzed, however, may require an additional review by the Commission.

- D. A copy of the original or modified version of the agreement must be filed with the clerk of the circuit court in each jurisdiction.
- E. If an agreement provides for the sharing of revenues by a county or otherwise establishes a long term debt on the part of the county, as defined by Article VII, Section 10 (b) of the Constitution of Virginia, the affected county must hold a referendum on the question of contracting the debt specified in the agreement. If a majority of voters in the county approve the contracting of the debt, the county governing body may proceed to adopt the agreement.

VII. Initiation of Judicial Review

(Sec. 15.2-3400, Code of Va.)

Following the adoption of the agreement, the governing bodies must petition the local circuit court for an order establishing the rights set forth under the terms specified in the agreement. Upon receipt of the petition from the local governments, the local circuit court judge will request the Chief Justice of the Virginia Supreme Court to convene a special three-judge panel pursuant to Chapter 30, Code of Virginia.

VIII. Proceedings of the Special Court

(Sec. 15.2-3400, Code of Va.)

- A. The parties to the settlement must present the agreement to the special three-judge court for final approval.
- B. The court is limited in its decision to either affirming or denying the settlement agreement under review and has no authority to amend or change the agreement without the express approval of the parties.
- C. The court must approve the agreement unless it finds that the settlement is not in the best interest of the parties or that it is not in the best interest of the Commonwealth in promoting orderly growth and the continued viability of the affected local governments.

IX. Duration of Agreements

(Sec. 15.2-3400, Code of Va.)

Agreements approved by the special court under the authority of Chapter 34, Title 15.2 of the Code of Virginia are binding on the current and future governing bodies of the localities that are parties to the agreement.

Staff
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